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ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 247

DATE: Monday, October 22, 1990

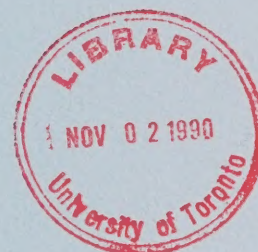
BEFORE:

A. KOVEN

Chairman

E. MARTEL

Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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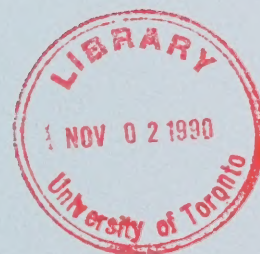
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO.

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the offices of the Ontario
Highway Transport Commission, Britannica
Building, 151 Bloor Street West, 10th Floor,
Toronto, Ontario, on Monday, October 22,
1990, commencing at 9:00 a.m.

VOLUME 247

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

Farr & Associates Reporting, Inc.

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1 ---Upon commencing at 10:10 a.m.

2 MADAM CHAIR: Good morning. Please be
3 seated.

4 Mr. Lindgren.

5 MR. LINDGREN: Good morning, Madam Chair.

6 One brief matter before we begin. Last
7 Friday I sent a letter to the various parties and to
8 the Board indicating that Mr. Nickson would be unable
9 to attend the hearing on Thursday, October 25th.

10 MADAM CHAIR: This Thursday?

11 MR. LINDGREN: This coming Thursday,
12 that's correct. Instead, we have rescheduled him for
13 Tuesday, October 30 and I wanted to put that on the
14 record.

15 MADAM CHAIR: Thank you, Mr. Lindgren.

16 MR. MARTEL: Do you have a replacement?

17 MR. LINDGREN: I don't think a
18 replacement is going to be necessary, Mr. Martel.

19 MR. COSMAN: Madam Chair, I think we have
20 to put our position on the record.

21 We are very concerned about the loss of
22 hearing days to date in this panel. Some of it was
23 long scheduled for obvious scheduling reasons, but when
24 a party cannot, for reasons of the availability of a
25 witness, make a particular day, it is incumbent upon

1 that party to fulfill its duty to the Board to replace
2 that witness with another witness, so that another
3 Board day is not lost.

4 MR. LINDGREN: Madam Chair, there will
5 not be a loss of a hearing day. Secondly, Mr. Cappell,
6 who is the witness scheduled for the 29th, can only
7 come on the 29th, and that's my position.

8 MADAM CHAIR: Mr. Cosman.

9 PAUL ARMSTRONG, Resumed

10

11 MR. COSMAN: Thank you, Madam Chair.

12 Madam Chair, good morning.

13 Good morning, Mr. Armstrong.

14 MR. ARMSTRONG: Good morning.

15 MR. COSMAN: Madam Chair, my
16 cross-examination this morning will not be very long.

17 Just by way of background. I think you
18 already know that this is a Crown management unit that
19 we are dealing with. This is not an FMA unit or a
20 company unit, first of all,

21 Second of all, the operator on the unit
22 is not a member of either the Ontario Forest Industries
23 Association or the Ontario Lumber manufactures
24 Association for which I act. You have a small operator
25 whose name appears in the documents filed by the name

1 of Schneider who operates with two or three people
2 assisting him, as I understand it.

3 CROSS-EXAMINATION BY MR. COSMAN:

4 Q. Now, Mr. Armstrong, notwithstanding
5 that, there are a few points of principle I think which
6 are important to the hearing which I hope to bring out
7 through my cross.

8 Mr. Armstrong, you would agree with your
9 father, would you not, that this is one of the
10 picturesque lakes in Ontario?

11 A. Yes.

12 Q. And such a nice lake that you made
13 the point that people come back to it year after year
14 from such far away places as Ohio, Florida and
15 different parts of Ontario and different parts of
16 Canada, for that matter?

17 A. That's correct.

18 Q. And you mentioned Ohio and Florida.
19 I have obtained through the interrogatory process a
20 copy of the letters patent for your association.

21 I would like to file that, Madam Chair,
22 as the next exhibit.

23 MADAM CHAIR: That will be Exhibit 1448.
24 Can you describe this document briefly for the record,
25 Mr. Cosman.

1 MR. COSMAN: Yes. The Letters Patent of
2 the Lake Weslemkoon Conservation Association. Maybe I
3 can do it through Mr. Armstrong.

4 Q. Mr. Armstrong, your Association has
5 become incorporated and this is the incorporating
6 document?

7 A. This is the 1953 incorporation
8 document.

9 Q. That's right.

10 ---EXHIBIT NO. 1448: Letters Patent of the Lake
11 Weslemkoon Conservation
 Association.

12 MR. COSMAN: And just to give you -- if
13 you would turn, for example, to the second page of that
14 document, it lists the first directors of the
15 corporation, your Association, and just to prove the
16 point that you have already made, you have -- I have
17 circled the places that people come from who are
18 members -- I have circled the places that these
19 directors come from and I have also put in square
20 brackets what their professions are, as indicated on
21 the incorporating document; is that right?

22 A. That's correct.

23 Q. So, for example, you have got people
24 from Ohio, New York, New Jersey, Cincinnati, et
25 cetera, then you have got people from Ontario,

1 Peterborough, London, Ontario, and others. I won't go
2 through all of it.

3 It also indicates the backgrounds and
4 profession of these people from teacher, executive
5 barrister, dentist, gentleman, contractor, professor
6 insurance agent, architect. These are the people who
7 were the directors of your cottage association?

8 A. That's correct.

9 Q. And, as I think you have already
10 indicated, these people return every year in the summer
11 at Lake Weslemkoon?

12 A. The people that are still surviving
13 that are listed on this list.

14 Q. You have already indicated -- these
15 cottages tend to stay in the familiar and their family
16 members would be returning?

17 A. (nodding affirmatively)

18 Q. You have to say yes.

19 A. Yes, sorry.

20 Q. All right. Now, you do know that --
21 first of all, your cottages enjoy not only Lake
22 Weslemkoon, but also Lake Otter as well because you
23 have access to that lake by a navigable applicable
24 water way; is that not right?

25 A. That's correct.

1 Q. So that people who live on your lake
2 travel by canoe or otherwise, by boat to fish, to
3 canoe, to bird watch on Otter Lake?

4 A. It's quite navigable by any power
5 boat.

6 Q. Okay. Your Association has, I think
7 it's fair to say, been consistently opposed to road
8 access to Otter Lake that would open up that area. I
9 think you described it one of your documents as
10 exposing -- you described it as unique remote
11 environmental area and you don't want that, obviously,
12 to become opened up?

13 A. That's correct.

14 Q. Now, do you know that others in the
15 local area have supported access to Otter Lake?

16 In that regard, I would like to file the
17 next document, Madam Chair, which is a letter from the
18 local Ontario Federation of Anglers & Hunters to the
19 Ministry of Natural Resources dated February 9th, 1988
20 which is one of the documents in the planning process.

21 I gave you a copy?

22 MR. ROBINSON: That's correct.

23 MADAM CHAIR: That will be Exhibit 1449.

24 --EXHIBIT NO. 1449: Letter from the OFAH to
25 the MNR dated February 9th, 1988.

1 MR. COSMAN: By that letter, the local
2 secretary of the Anglers and Hunter is writing to the
3 Ministry of Natural Resources in Tweed and says:

4 "Further to discussions that you and I
5 had in your office and discussions that I
6 had later with Tom at the Kingston Club
7 meeting, we discussed the two new
8 proposed forest access roads at his own
9 meeting. We are in complete agreement
10 that the construction of those proposed
11 roads. We feel that they will provide
12 additional access that will allow the
13 outdoor recreationists to spread out and
14 take some of the pressure off presently
15 used areas that are accessible. These
16 roads will have the added advantage of
17 providing your people in both timber and
18 wildlife easier access to the resources
19 that they are managing. We strongly
20 approve to the lake access point proposed
21 for Otter Lake. The fishery resource
22 here belongs to everyone and should be
23 made more accessible and that this road
24 will do just that."

25 I don't think there is any question that

1 a road will certainly make the lake more accessible to
2 everyone, but I take it that your cottage association
3 would have be strongly opposed to the kind of access
4 that the local anglers and hunters are seeking here?

5 A. Yes, that's correct.

6 Q. So in addition to the local people
7 who are members of the Anglers and Hunters Association,
8 you are also aware that the local municipality in the
9 area has sought to have access to that lake. You know
10 that as well?

11 A. That's represented by Greer, Galloway
12 report that was sponsored by the local municipality.

13 Q. That's right. And the local
14 municipality has taken the position that it would be in
15 the best interest of the municipality, by way of
16 benefits at the local level, to open up the lake by way
17 of a road access?

18 A. That is their opinion, yes.

19 Q. And your opinion is obviously
20 opposite to that?

21 A. Opposite.

22 Q. Okay. Is it fair to say that people
23 who are not so lucky as to have a cottage on the lake
24 would like to share the fishing and bird watching
25 opportunities, hunting opportunities that are available

1 to the cottagers?

2 A. Yes, and I don't think luck is an
3 accurate word that I would portray it with.

4 Q. Well, let's talk about those
5 cottages. You have indicated that the cottages tend to
6 be held for several generations. Is it not fair to say
7 they certainly don't go on the market very often?

8 A. That's fair to say.

9 Q. I did a little bit of exploring on
10 the weekend. You are aware that Bob Donaldson's
11 cottage sold last year?

12 A. No, I'm not aware of what cottages
13 are sold.

14 Q. Okay. You are aware that they --
15 that the cottages don't go on the market very often?

16 A. That's correct.

17 Q. So if I told you and was able to file
18 proof that Bob Donaldson's cottage sold \$125,000 last
19 year you wouldn't be able to prove or disprove that?

20 A. No, I would not.

21 MR. LINDGREN: And, Mr. Cosman, we
22 certainly expect to see that evidence.

23 MR. COSMAN: I will make that
24 undertaking, if you like.

25 Q. Furthermore, Mr. Armstrong, there was

1 some evidence about the local snowmobile club, that it
2 cut a corridor to the lake, and I think you took the
3 signs down from the trail.

4 With respect to this particular
5 snowmobile access, are you opposed to snowmobilers
6 getting access to the lake?

7 A. No, I'm not.

8 Q. So your concern was the width of the
9 access road?

10 A. It was the width of the corridor that
11 was actually cut.

12 Q. All right.

13 A. And it was also in the notice that
14 anybody on the lake was given regarding this access.

15 Q. So your concern is with the process
16 there and we will hear from the MNR as to what the
17 process is in that regard, but you don't oppose local
18 snowmobilers?

19 They don't have access to the lake in the
20 summer months, they have access to the lake on their
21 trails in the winter months when cottagers aren't
22 there. You are not opposed to that?

23 A. No, I'm not.

24 Q. All right. I would like to refer to
25 Exhibit 1440 that Mr. Lindgren filed when we met last.

1 It is a two-page document, Madam Chair.
2 It says File Note on top of it and it signed by Mr.
3 Hagborg or it isn't actually signed by him, it has
4 actually got his initials at the bottom.

5 There was some issue about what this
6 particular document was, but I you said that you said,
7 did you not, Mr. Armstrong, that this memorandum
8 accurately summarized what was said at the meeting with
9 the Lake Weslemkoon Conservation Association on July
10 30, 1988; is that right?

11 A. I said there were a couple of things
12 that I did not agree with, but they have already been
13 documented in what I said on Friday -- on Wednesday,
14 rather.

15 Q. So apart from the things that you
16 pointed out--

17 A. That's correct.

18 Q. --you agree -- or let me ask you, are
19 you in agreement that this is a fair summary of what
20 was said at this meeting?

21 A. Yes.

22 Q. And if I can turn to page 2 of that
23 document. There is two parts, the way page 2 is
24 prepared, you will see Ashby-Trout Lake Road proposal
25 presentation. You have got need for the road, and

1 there is number of comments, benefits and comments.

2 So in terms of need for the road, just
3 going through it briefly, it says:

4 "New management system has us doing
5 harvesting every 15 to 25 years,
6 intensive forest management requires
7 access to ensure areas are regenerated,
8 tending, protected and accessed on an
9 ongoing basis. Loggers are not taking
10 out as much volume, therefore it is not
11 feasible for them to build complete
12 new roads every so many years for
13 harvesting. Harvesting operations could
14 be accessed from our access road, made
15 commitments to build minimum standards
16 for MTC funding. When municipality takes
17 it over they will benefit as well."

18 Is that a fair summary of the points that
19 were made by the MNR with respect to the need for the
20 road.

21 A. Yes.

22 Q. In terms of benefits, improved access
23 for forest management, harvest, silvicultural
24 protection, improved access for local municipality.

25 The local municipality was asking for

1 improved access; weren't they?

2 A. That's correct.

3 Q. They were asking -- in fact, they
4 were asking for an access that was of a higher grade of
5 road than even had been proposed?

6 A. That is my impression, yes.

7 Q. All right.

8 "Assist in distributing resource
9 management activities in the district,
10 reduce harvest pressures in northern part
11 of district, enhance integration of
12 resource management programs. All
13 programs will utilize the new access road
14 to implement their work programs;
15 fisheries, better access from...lakes,
16 such as Trout..."

17 "Wildlife, additional small game hunting
18 opportunities; district below the DLUG
19 target, some additional big game
20 opportunities also."

21 So, in any event, those were the points
22 you made. You had other reasons why you disagreed with
23 it, but those were the points that were discussed and
24 outlined by the MNR at that meeting with you?

25 A. Yes, but some -- a lot of these

1 things were not exactly brought out. If you refer to
2 the file note, those were basically what was brought
3 out. They were what was brought out.

4 Q. Okay.

5 A. Some of the other things, they have
6 been expanded upon, okay, in this.

7 Q. All right. I agree with that. You
8 said the last time we met--

9 A. Substantially correct.

10 Q. --there were some other things as
11 well. But the point is that you have different views
12 about the same area which, in effect, the MNR was in
13 the middle of it.

14 The local municipalities wanting one
15 thing, you had local residents wanting better access,
16 the cottagers association quite understandably not
17 wanting that kind of access and the MNR was sort of in
18 the middle on this?

19 A. Yes, and I would also point out that
20 this is conservation association, not a cottagers
21 association.

22 Q. Right, okay. Now, I think you
23 indicated when we met last that -- excuse me, just
24 before I leave the last point.

25 Is the Association made up of the persons

1 who are cottagers on the lake?

2 A. That is correct.

3 Q. So to be a member of the Association
4 you have to be a cottager on the lake?

5 A. Okay. The way that the actual
6 membership is actually obtained now has changed within
7 the last few years, but at that particular time when
8 this all began you did not have to be a cottager on the
9 lake.

10 Q. But you do now?

11 A. Yes, that's basically...

12 A cottager or a resident of the lake.

13 Q. Or a permanent resident. We heard
14 about that last time, too.

15 A. That's correct.

16 Q. Okay. With respect to timber
17 harvesting in the area, you indicated that the
18 Association is not opposed to timber management
19 activities per se?

20 A. No.

21 Q. And you recognize the importance to
22 the local economy of the forest industry?

23 A. Yes, I do.

24 Q. And you know that a member of males
25 in Trenton are dependent upon timber from the local

1 area?

2 A. Yes.

3 Q. Have some of the people who make a
4 living from the forest industry in the local area, have
5 they have been able to afford houses or cottages on
6 Lake Weslemkoon, as well as people from Toronto, the
7 U.S. and other places?

8 A. I am aware of a few people in the
9 local area that own cottages.

10 Q. Okay. Not many?

11 A. Not many.

12 Q. All right. Another point I wanted to
13 go to, sir, is with respect to waste lots and you
14 expressed in your affidavit a concern about -- your
15 witness statement, concern about logs left in the area
16 after harvesting from the previous year.

17 I think quite fairly when you testified
18 last you indicated that most have been cleared out, but
19 when you made a trek through you saw that there was one
20 pile left?

21 A. That's correct.

22 Q. And I understand and am advised that
23 these logs were pine -- there were different kinds of
24 logs, but there was a pile of pine sawlogs that have
25 since been removed, sawed into lumber and now part of a

1 house in Denby. I am asking you, are you aware of
2 that?

3 A. I am unaware of that.

4 MR. LINDGREN: And, Mr. Cosman, you have
5 proof of that, I understand.

6 MR. COSMAN: I can call evidence, Madam
7 Chair, if my friend wants me to. I will, but my
8 opportunity to call evidence now is in reply.

9 THE WITNESS: I am unaware of this, and
10 if we are referring to the pile of logs that I saw that
11 were still piled there on the Thanksgiving weekend of
12 1990, I'd be surprised if they were actually in a house
13 in Denby at the present time.

14 MR. COSMAN: Q. In any event, you are
15 unaware as to what happened to the logs that were
16 removed?

17 A. The logs that were there -- that were
18 still there?

19 Q. No, the logs that were removed. You
20 indicated most were removed, there was one pile left.
21 I am saying, you are not aware of what happened?

22 A. I am not aware.

23 Q. All right. Now, were some of those
24 logs balsam logs cut into four-foot length?

25 A. There were so many logs that were

1 there I cannot accurately give --

2 Q. You are not a forester; are you?

3 A. No, I'm not.

4 Q. I mean, you don't pretend to be a
5 forester either?

6 A. No, I don't.

7 Q. So as to what kind of logs or what
8 kind of wood they are, the significance of that, it
9 doesn't mean -- it's not very significant to you.

10 From your point of view, you saw logs in
11 the bush, they shouldn't be there and that was the
12 point you were making?

13 A. That's correct.

14 Q. All right.

15 MR. COSMAN: I will call evidence on this
16 if my friend wants me to, but I understand that balsam
17 logs on a small operation like this pile up for two
18 years before shipping in order to accumulate a load
19 size and this is not unusual.

20 Q. Can you say anything about that?

21 A. I cannot accurately respond to that.

22 Q. All right. So in any event, except
23 for the one pile that you mentioned, that wood has
24 since been removed?

25 A. That's correct.

1 Q. Okay. With respect to your evidence
2 about the area being an environmentally sensitive area,
3 and this isn't meant as a criticism, but you are not
4 coming before this Board as a biologist to speak
5 biologically about the particular local environment?

6 A. No, I'm not.

7 Q. And you are not a forest scientist
8 either?

9 A. No, I'm not.

10 Q. So when you indicate that an area is
11 environmentally sensitive, I think you referred to rare
12 flowers or rare fish, you are not giving any firsthand
13 evidence because you --

14 A. I am not giving expert testimony, no.

15 Q. All right. And in that regard, you
16 are relying on, among other things, your observation of
17 the site. You are familiar birds -- you are interested
18 in birds obviously, it came through in your evidence.

19 A. Yes.

20 Q. What you are reporting on is your
21 sighting of birds in the area, in the marsh area which
22 is obviously of tremendous interest to you as a
23 cottager and conservationist in the area?

24 A. That's correct.

25 MR. COSMAN: Thank you very much. Those

1 are my questions, Madam Chair.

2 MADAM CHAIR: Thank you, Mr. Cosman.

3 Ms. Blastorah.

4 MS. BLASTORAH: Perhaps if I could just
5 have a minute to trade places with Mr. Cosman.

6 MADAM CHAIR: Certainly.

7 MS. BLASTORAH: I would like to begin,
8 Mrs. Koven, by filing a number of exhibits that I am
9 going to be referring to or documents I am asking to be
10 marked as exhibits for my cross-examination.

11 I have provided Mr. Lindgren with copies
12 of these documents for himself and the witness and I
13 will just distribute the rest now, if I may.

14 First of all, I have a package of
15 interrogatories relating to Document 6 of Forests for
- 16 Tomorrow Panel 2. They are Ministry of Natural
17 Resources No. 1-4, 6, 7, 9, 10, 11, 14-16, 18, 20-21,
18 and I have removed the ones from my package which
19 duplicated those already filed, and also included in
20 that package are OFIA interrogatories No. 4 and 5.

21 MR. HUFF: You didn't do No. 5 of the MNR
22 ones?

23 MS. BLASTORAH: No, that's correct. .

24 MADAM CHAIR: That's Exhibit 1450.

25

1 ---EXHIBIT NO. 1450: MNR interrogatory question Nos.
2 1-4, 6, 7, 9-11, 14-16, 18,
3 20-21; OFAH Nos. 4 and 5.
 (Document 6, Panel 2)

4 MS. BLASTORAH: Perhaps I will ask Mr.
5 Buss to distribute those to the parties and I will give
6 the Board the whole bunch at the end rather than
7 jumping up and down.

8 Next is a document I have prepared which
9 is something I thought might be helpful for both the
10 witness and the rest of us during cross-examination.
11 It is a basic chronology of the major events and
12 correspondence, and I will be going through that with
13 the witness, so I am just filing it for reference
14 purposes now.

15 As I say, it was provided to Mr. Lindgren
16 previous to this morning's session and it is
17 principally for use in cross-examination.

18 MADAM CHAIR: How many pages is that, Ms.
19 Blastorah?

20 MS. BLASTORAH: Four pages, Mrs. Koven.

21 MADAM CHAIR: Thank you. That will be
22 Exhibit 1451.

23 ---EXHIBIT NO. 1451: Four-page document outlining
24 basic chronology of the major
 events and correspondence between
25 the MNR and Mr. Armstrong
 prepared by Ms. Blastorah.

1 MR. LINDGREN: This is the MNR chronology
2 of events?

3 MS. BLASTORAH: That's right. It is a
4 chronology prepared by me for use in my
5 cross-examination. I am not suggesting it is anything
6 official.

7 Next is a letter dated February 12th,
8 1988 from Marilyn Nash as President of the Weslemkoon
9 Conservation Association to Mr. A. Denys, District
10 Manager for MNR, Tweed District.

11 MADAM CHAIR: How many pages is the
12 letter, Ms. Blastorah?

13 MS. BLASTORAH: It is just one page.

14 MADAM CHAIR: That will be exhibit 1452.

15 ---EXHIBIT NO. 1452: Letter dated February 12th, 1988
16 from Marilyn Nash as President of
17 the Weslemkoon Conservation
18 Association to Mr. A. Denys,
District Manager for MNR, Tweed
District.

19 MS. BLASTORAH: I'm sorry, I'm afraid
20 this is a bit tedious, but I thought it might be more
21 convenient to mark these all at once.

22 Next is a copy of a field trip report in
23 relation to the proposed Ashby Lake Link Road, Tweed
24 District, dated August 29th, 1988, signed by Don Cuddy,
25 Regional Ecologist with the Ministry of Natural

1 -Resources. It actually doesn't say Natural Resources,
2 but it does say regional ecologist.

3 MADAM CHAIR: How many pages is that
4 document?

5 MS. BLASTORAH: Two pages.

6 MADAM CHAIR: That will be Exhibit 1453.

7 ---EXHIBIT NO. 1453: Field trip report re proposed
8 Ashby Lake Link Road, Tweed
9 District, dated August 29th,
10 1988, signed by Don Cuddy,
Regional Ecologist with the
MNR.

11 MS. BLASTORAH: Next is a letter dated
12 June 6th, 1989, one page, from Mr. L. C. Chamberlain,
13 District Manager for Tweed District, Ministry of
14 Natural Resources, and there is no -- there are only
15 numbers indicating who it went to, so it is just a
16 letter from Mr. Chamberlain.

17 I apologize, I seem to be short of copies
18 on that last one, we will have to have some more made
19 on the break.

20 MADAM CHAIR: That's Exhibit 1454.

21 ---EXHIBIT NO. 1454: One-page Letter dated June 6th,
22 1989, from Mr. L. C. Chamberlain,
23 District Manager for Tweed
District, MNR.

24 MS. BLASTORAH: Next is a letter dated
25 July 17th, 1989 to Mrs. M. Nash, President Lake

1 Weslemkoon Conservation Association from Mr. W.G.
2 Hagborg, Forest Management Supervisor, Tweed, Napanee
3 Districts, Ministry of Natural Resources, and that is
4 one page in length.

5 MADAM CHAIR: That's Exhibit 1455.

6 ---EXHIBIT NO. 1455: One-page letter dated July 17th,
7 1989 to Mrs. M. Nash, President
8 Lake Weslemkoon Conservation
9 Association from Mr. W.G.
Hagborg, Forest Management
Supervisor, Tweed, Napanee
Districts, MNR.

10 MS. BLASTORAH: Next is a map, and I only
11 have one copy of this I'm afraid, but it is a complete
12 copy of the map which is already shown in the witness'
13 source book as Exhibit R -- Appendix R, I beg your
14 pardon. It's a map titled Tweed Administrative
15 District, Proposed Area of Operations for the Five-Year
16 Term, 1990 to 1995, Tweed Crown Management Unit. I
17 think all of this information is contained on Appendix
18 R.

19 MADAM CHAIR: Thank you, and that is
20 Exhibit 1433A?

21 MS. BLASTORAH: Yes. And the date of
22 that is May 1989.

23 MADAM CHAIR: That's Exhibit 1456.

24
25

1 ---EXHIBIT NO. 1456: Map titled Tweed Administrative
2 District, Proposed Area of
3 Operations for the Five-Year
4 Term, 1990-1995, Tweed Crown
5 Management Unit, dated May 1989.

6 THE WITNESS: This is August may?

7 MS. BLASTORAH: That is the May map, Mr.
8 Armstrong. I didn't have a copy --

9 MR. ARMSTRONG: I have the August map.

10 MR. BLASTORAH: I am going to be marking
11 that as well. This is the complete map which is your
12 Appendix R.

13 If you don't mind, Mrs. Koven, I will
14 hang on to this for purposes of showing it to the
15 witness during cross-examination.

16 MADAM CHAIR: All right.

17 MS. BLASTORAH: If anyone wishes a copy
18 of that last exhibit, 1556, I will attempt to have
19 copies of that made this evening and make them
20 available tomorrow. It is an over-sized map, so I
21 haven't been able to get it copied.

22 The next map is a similar map. Again, it
23 is the full map for one Mr. Armstrong has included in
24 his source book as Appendix T, as in Tom. This is the
25 August 1989 map for the proposed area of operations for
the same five-year term. Again, the description is
included in Mr. Armstrong's source book.

1 MADAM CHAIR: That will be Exhibit 1457.

2 ---EXHIBIT NO. 1457: August 1989 map for the proposed
3 area of operations for the
4 five-year term, 1990-1995,
referred to in Appendix T of Mr.
Armstrong's source book.

5 MS. BLASTORAH: I had provided Mr.
6 Lindgren with a copy of this and I have given the
7 witness a copy. I have one additional one that perhaps
8 could go to one of the other parties.

9 Again, I think we can make more copies of
10 that available, if need be.

11 Next is a record of verbal transaction,
12 timber management plan for the Tweed Crown Management
13 Unit. This is date November 29th, 1989. The name of
14 the contact person is Beryl, Edminson and the
15 organization identified is cottager on Lake Weslemkoon.

16 MADAM CHAIR: How many pages?

17 MS. BLASTORAH: This document is two
18 pages. There is one page, a handwritten note and a map
19 is attached.

20 MADAM CHAIR: That will be Exhibit 1458.

21 ---EXHIBIT NO. 1458: Two-page verbal transaction,
22 timber management plan for the
23 Tweed Crown Management Unit,
dated November 29, 1989.

24 MS. BLASTORAH: Next is a letter dated
25 February 12, 1990 from Mr. L. C. Chamberlain, District

1 Manager for the Tweed District of the Ministry of
2 Natural Resources. It's addressed to "Dear
3 Participant". It is a one-page letter with an
4 attachment which is the public -- notice of public
5 inspection of the improved timber management plan for
6 the Tweed Crown Management Unit for the period
7 1990-2010.

8 MADAM CHAIR: That will Exhibit 1459.

9 Did you say that was two pages, Ms.

10 Blastorah?

11 MS. BLASTORAH: It's two pages in total;
12 a one-page letter and a one-page map.

13 I am marking the numbers on the Board
14 copies as we go.

15 ---EXHIBIT NO. 1459: Two-page letter dated February
16 12, 1990 from Mr. L. C.
17 Chamberlain, District Manager for
the Tweed District of the
MNR.

18 MS. BLASTORAH: Next I have a letter
19 dated July 31st, 1990, again from Mr. Chamberlain,
20 District Manager of Tweed District to Mr. Gord Greer,
21 and this letter is two pages in length.

22 Did I give you the date? It is July
23 31st, 1990.

24 MADAM CHAIR: That will be Exhibit 1460.

1 MADAM CHAIR: That will be Exhibit 1462.

2 ---EXHIBIT NO. 1462: Map titled Ashby-Trout Lake Road
3 Proposal, Tweed Crown Management
Unit.

4 MADAM CHAIR: Is that it, Ms. Blastorah?

5 MS. BLASTORAH: That's all the documents
6 I had to mark, Mrs. Koven. I have two copies of them
7 here for the Board.

8 MADAM CHAIR: Thank you. We normally
9 need three.

10 MS. BLASTORAH: Yes, that's correct, and
11 I just gave out all my copies I just realized. I will
12 have to make another copy available for the official
13 exhibit.

14 MADAM CHAIR: We are all right then. We
15 have our three.

16 Mr. Armstrong, were you notified of all
17 this material?

18 THE WITNESS: I was given copies of most
19 of this material this morning.

20 MS. BLASTORAH: Mrs. Koven, just to
21 clarify that. We did provide this documentation quite
22 some time ago, I believe it was August 23rd. We
23 provided a package of information to Mr. Lindgren
24 pursuant to a request for production of documents and I
25 think all of these documents are included in that.

1 Perhaps he could clarify if that wasn't the case.

2 I know, for instance, the one letter to
3 the Environmental Assessment Branch, which is Exhibit
4 1461, was sent after we produced those documents
5 pursuant to his request, but that is something that's
6 available on the bump-up file, if you will, so I'm sure
7 it is something that he is aware of.

8 Most of this documentation, in fact, is
9 that it's supplementary documentation to the plan, so
10 it is also public record.

11 Sorry, I neglected to mark one additional
12 map which is an oversized map. We have placed it on
13 the easle. Again, this is something that was shown to
14 Mr. Armstrong and Mr. Lindgren, I think it was last
15 week. Prior to the evidence-in-chief, we offered both
16 of these maps to Mr. Lindgren for use in direct and he
17 elected to use the one that has already been marked,
18 but the witness had an opportunity at that time to
19 examine both of the maps.

20 MADAM CHAIR: You want another exhibit
21 number for the second map?

22 MS. BLASTORAH: Yes, I think so.

23 MADAM CHAIR: What is it?

24 MS. BLASTORAH: Perhaps I could ask Mr.
25 Buss to describe it or Mr. Lindgren. If you could just

1 flip it down. It is basically an FRI stand map
2 identical to the one which has already been marked as
3 exhibit...

4 MR. LINDGREN: 1437.

5 MS. BLASTORAH: ...1437. This one shows
6 reserves, the location of reserves under the 1990-2010
7 timber management plan for the Tweed Crown Management
8 Unit.

9 MADAM CHAIR: That will be Exhibit 1463.

10 ---EXHIBIT NO. 1463: FRI stand map identical to
11 Exhibit 1437, depicting location
12 of reserves under the 1990-2010
timber management plan for the
Tweed Crown Management Unit.

13 MS. BLASTORAH: I'm sorry, I know this
14 housekeeping work is tedious, but I thought it would be
15 simpler rather than interrupting the witness'
16 testimony.

17 MADAM CHAIR: I don't know about you, Mr.
18 Armstrong, but I find all this confusing.

19 MS. BLASTORAH: I am sure we all do, Mrs.
20 Koven.

21 THE WITNESS: There is an awful lot of
22 trees in the amount of paper here.

23 MADAM CHAIR: Okay, let's go.

24 MS. BLASTORAH: Now, basically, as I
25 indicated at the outset, I prepared a bullet point

1 chronology to assist everyone in following the facts
2 during cross-examination and I will be going through
3 that, but first I thought I would take just about two
4 minutes to sort out some of the major events that have
5 occurred during this, and I would like to go through
6 that very quickly. I would just like Mr. Armstrong to
7 confirm that each of those happened and I think that
8 will help us follow our way through this fact
9 situation.

10 And, Mr. Armstrong, I am just going to
11 indicate the major events.

12 THE WITNESS: Are you referring to this
13 document?

14 MS. BLASTORAH: They are marked on there,
15 but I think I will just cite them out to you, the major
16 events, and we can just clarify where we are going.

17 CROSS-EXAMINATION BY MS. BLASTORAH:

18 Q. This road proposal was originally
19 made as an amendment to the 1985 to '90 timber
20 management plan; correct?

21 A. Correct.

22 Q. And there was an open house for that
23 proposal; correct?

24 A. Correct.

25 Q. That was in January of 1988?

1 A. That's correct.

2 Q. Okay. And that amendment was never
3 approved?

4 A. That's correct.

5 Q. Now, instead of approving that
6 amendment, the road proposal was integrated into the
7 process for the new timber management for the Crown
8 unit; correct?

9 A. Correct.

10 Q. And that planning process then
11 commenced in the spring of 1989?

12 A. That's correct.

13 Q. And there were two information
14 centres in relation to that and they were held in May
15 of 1989?

16 A. That's correct.

17 Q. In addition, the information centre
18 material was retrained in the district office for the
19 summer and you reviewed that material during the
20 summer?

21 A. At their offices?

22 Q. Yes.

23 A. I did not attend their offices -- in
24 1989?

25 Q. Yes.

1 A. Yes, in June of '89 I did attend
2 their offices.

3 Q. Thank you. And another special
4 information centre for draft plan review was held in
5 November of 1989?

6 A. That's correct.

7 Q. Okay. And a final notice was sent
8 out in February 1990 in relation to that plan?

9 A. That's correct.

10 Q. And members of the Association did
11 look at the final plan, I believe?

12 A. To the best of my knowledge, yes.

13 Q. Okay. And the final plan was
14 approved on April 7th?

15 A. That's correct.

16 Q. In addition, in July of this year
17 when construction of the proposed road was actually
18 going to commence, the Ministry of Natural Resources
19 sent the Lake Weslemkoon Conservation Association a
20 letter to advise the Association of that fact?

21 A. That's correct.

22 Q. And I believe you filed that letter
23 already.

24 A. It was filed with the documents when
25 Mr. Lindgren was examining. I was not in possession of

1 that letter.

2 MS. BLASTORAH: Okay. I may be mistaken
3 in that, Mr. Lindgren. Perhaps you could correct me if
4 I am wrong.

5 Q. It was at that stage that your
6 organization wrote to the Ministry of the Environment
7 asking for a designation of the road proposal?

8 A. That's correct.

9 Q. That was July 13th of this year?

10 A. That's correct.

11 Q. And MOE organized a meeting between
12 your organization, the Lake Weslemkoon Conservation
13 Associate, the Ministry of Natural Resources and the
14 Ministry of the Environment for October 2, 1990?

15 A. That's correct.

16 Q. And Mr. Betts contacted Mr. Hagborg
17 and wrote him a letter on October 16 which was last
18 Tuesday and that letter has been filed?

19 A. That's correct. There was also a
20 further conversation with Mr. Hagborg on October the
21 10.

22 Q. Right. Finally, just to complete the
23 broad context. You will agree with me that as of today
24 there is no road. This is still a road proposal,
25 construction has not actually started?

1 A. As of Monday of the holiday weekend,
2 that is correct.

3 Q. Do you know whether that is still the
4 case today?

5 A. To the best of my knowledge that is
6 still the case.

7 Q. Okay. So you have no reason to
8 disagree with that?

9 A. No.

10 Q. Thank you. Now, hopefully that will
11 help us just to know where we are going as we work
12 through this chronology. I would like to turn to that
13 now, which is Exhibit 1451.

14 As you will see, Mrs. Koven and Mr.
15 Armstrong, and Mr. Martel and everyone else, I have
16 indicated on this chronology, to the best of my
17 ability, I am not purporting it is a complete list, but
18 I have tried to catch the major exhibits, interrogatory
19 number and so on which relate to the various events as
20 they occurred here. In some cases they are
21 interrogatories we posed to confirm that notices were
22 received and so on.

23 So I hoped that that would be of some
24 assistance to both the Board and the other parties in
25 pulling this information together.

1 Now, in MNR interrogatory No. 6, you
2 agreed that the notice of plan amendment was published
3 on or about November 26th, 1987 and that you received
4 that notice as President of the Lake Weslemkoon
5 Conservation Association and that's the notice which
6 you have included in your source book as Appendix B?

7 A. As past President of the Association.

8 Q. I believe you received it as
9 President, though. You were past president I think at
10 the time?

11 A. I was past President, yes.

12 Q. What I meant was, it was addressed to
13 to you as President, I believe?

14 A. Yes.

15 Q. Now, you also received an information
16 package which is included in Appendix B. That package
17 is dated December 16, 1987. When did you receive that
18 information package?

19 A. I believe I received that on
20 December -- I believe I received that on December 23rd.

21 Q. And how did you receive that?

22 A. By mail.

23 Q. By mail. Could you confirm that? If
24 December 23rd is not the case, maybe you could just
25 undertake to let us know?

1 A. Okay.

2 Q. Thank you. I won't take your time to
3 do that now.

4 And that package of information, which is
5 again included in your Appendix B, contains more
6 detailed maps that were in the original notice in
7 relation to the road proposal?

8 A. That's correct.

9 Q. Now, this is where Exhibit 1438 comes
10 in, which is a record of phone calls by yourself and
11 Mrs. Nash to the district office?

12 A. That's correct.

13 Q. And your counsel filed that. You
14 called the district December 7th to discuss this
15 amendment proposal?

16 A. Correct.

17 Q. And I believe Mrs. Nash called for
18 same purpose?

19 A. That's Correct.

20 Q. Now, you were asked, I believe, at
21 that time to attend the open house or you were advised
22 that you could?

23 A. That's correct.

24 Q. During that conversation, were you
25 ever advised that your comments in relation to this

1 proposal would not be considered if they were submitted
2 after the January 18th deadline set out in the notice?

3 A. To the best of my knowledge, I really
4 can't remember, to be honest with you.

5 Q. But you can't say that you were
6 advised that?

7 A. No.

8 Q. Okay, fair enough. Now, the
9 information was -- the information centre was held on
10 December 16th and 17th and that was attended by Mrs.
11 Nash on behalf of the Association and you indicated
12 that in our interrogatory No. 8?

13 A. That's correct.

14 Q. And the next thing that happened is
15 you wrote to the district on January 13th, 1988 raising
16 a number of concerns with the proposeal and those are
17 set out in Appendix E to your documentation?

18 A. That's correct.

19 Q. And I understand that several other
20 members of the Association wrote about the same time
21 raising essentially the same concerns? You are aware
22 of that.

23 A. (nodding affirmatively)

24 Q. Now, the district sent the same
25 response to all the Lake Weslemkoon cottagers and that

1 response has been marked by your counsel as Exhibit
2 1439. Do you have that in front of you?

3 A. No, I don't.

4 Q. It may not be necessary. Perhaps Mr.
5 Lindgren could provide you a copy. Thank you, Mr.
6 Lindgren.

7 Now, let's just look at that letter. If
8 you could look at paragraph 4 of that letter.

9 A. Yes.

10 Q. You would agree with me that that
11 paragraph reads as follows:

12 "Additional information on the road
13 proposal which is brought to our
14 attention will be considered whenever it
15 is submitted. The Tweed office of the
16 Ministry has contacted and offered to
17 meet with the president of the Lake
18 Weslemkoon Conservation Association
19 during the week of February 8th to 12th,
20 1988 to discuss the proposal further."

21 So that's in the letter that was filed as
22 a standard response?

23 A. Correct.

24 Q. And that meeting that's proposed for
25 the week of February 8th to 12th -- by the way, that

1 period is outside the response period indicated on the
2 original notice; correct?

3 A. Correct.

4 Q. And, again, you agree that you were
5 being advised there that your input would not be too
6 late--

7 A. That's correct.

8 Q. --at that point because it would be
9 received an any time. Now, on February 8th, that
10 meeting was held between the Ministry and your
11 Association to discuss the proposal further?

12 A. That's correct.

13 Q. And I understand that meeting was
14 held in Trenton?

15 A. That's correct.

16 Q. And that's closer to Toronto. I
17 understand that was -- you may not be aware of this,
18 but can you confirm that was partly to facilitate
19 people coming from out of town and the Tweed District
20 staff travelled to Trenton and cottagers from the
21 Toronto area travelled as far Trenton?

22 A. That's correct.

23 Q. That meeting was attended by Mr.
24 Betts, Mrs. Nash, Mr. Sheridan Smith and yourself?

25 A. That's correct.

1 Q. And you agreed -- I believe it was
2 agreed by those in attendance at that meeting to
3 postpone any further activity on the proposal until
4 your Association and the Ministry of Natural Resources
5 had an opportunity to inspect the site together early
6 in 1988 and '89; in other words, in the spring?

7 A. That's correct.

8 Q. Okay. And the next exhibit that I
9 marked after the chronology, which is Exhibit 1452,
10 basically confirms that?

11 A. That's correct.

12 Q. That's a letter from Mrs. Nash dated
13 February 12th, which thanks the Ministry for meeting
14 with the Association to discuss the concerns further
15 and indicates that -- Mrs. Nash says:

16 "We have always found the Ministry to be
17 receptive and cooperative when we have
18 presented issues of concern and we trust
19 that this matter may also be resolved to
20 everyone's satisfaction. We look forward
21 to meeting with your staff in the
22 spring when we will have an opportunity
23 to review the proposed route."

24 You agree that's what the letter says?

25 A. I agree.

1 Q. Thank you. Now, the next event is
2 the July 30th, 1988 annual meeting of the Lake
3 Weslemkoon Conservation Association, and you discussed
4 that in your evidence-in-chief. That was the meeting
5 at which Mr. Hagborg attended for MNR to make a
6 presentation on the road proposal and I believe a Mr.
7 Petzold of the Ashby, Denby and Abinger Townships also
8 attended and make a presentation relating to the
9 municipalities or the township's support for that road?

10 A. That's correct.

11 Q. And that's included in your minutes
12 of that meeting which are Appendix H, I believe. Let
13 me just double check that. Appendix I, I beg your
14 pardon.

15 Again, I believe Mr. Hagborg mentioned at
16 that -- sorry, I beg your pardon. The propose route
17 inspection, which we have discussed, was also held on
18 that date, July 30th?

19 A. That's correct.

20 Q. Okay. That was the Saturday of the
21 long weekend. I think you indicated in direct your
22 meetings, your annual meeting is always held the
23 Saturday --

24 A. It's always held on a Saturday of the
25 long weekend at the beginning of August.

1 Q. Right. So that was the Saturday.

2 Now, Mr. Hagborg did attend and talked about the road
3 proposal.

4 Now, you indicated in direct that he made
5 some comments at that meeting about a 400 metre
6 reserve. Am I correct that you were saying 400 metres
7 not 4000 feet?

8 A. Four hundred metres.

9 Q. Okay. Now, when you are speaking
10 about that 400 meter reserve, are you talking about how
11 far the proposed road would be from the edge of the
12 lake, however defined at this point, or are you talking
13 about the width of a timber reserve because those are
14 two different things?

15 A. I realize that. It was 400 metres
16 from the edge of the lake.

17 Q. Four hundred metres from the edge of
18 the lake to what? For the road?

19 A. For the road, yes.

20 Q. Okay. And we are agreed there are no
21 allocations under the current plan along this road?

22 A. No.

23 Q. That's "no" you agree?

24 A. Yes, I agree.

25 Q. Thank you. Unfortunately, when we

1 read the record later it is not always clear.

2 Now, with regard to the measurement of
3 the reserve, as you have described to, in other words
4 the setback from the lake, I would just like to clarify
5 one thing. In direct, you indicated that you
6 understood the Ministry of Natural Resources intended
7 to measure the reserve along the shore of Otter Lake
8 from the edge of the lake rather than the edge of the
9 the marsh?

10 A. That's correct.

11 Q. Would you turn to Appendix N in your
12 source material, page 3. Now, that is a diagram which
13 was sent to you with a letter of November 1st, 1988
14 from the Ministry and that letter is also Appendix N.
15 I would just like to look at this document -- this
16 diagram, rather, for a moment.

17 Now, you would agree that --

18 MR. MARTEL: What number is that?

19 MS. Blastorah: I'm sorry. It is
20 Appendix N, Mr. Martel, in the source book, and it
21 books like this. (indicating)

22 Do you have that?

23 Q. Now, you will see that this diagram
24 to divided up a couple of ways. It indicates lake,
25 marsh and swamp and there are vertical lines indicating

1 on the diagram where those cut-off points are, if you
2 will. There are also horizontal lines identified as A,
3 B and C. You see that?

4 A. Yes, I do.

5 Q. Now, would you agree with me that the
6 high water level of the lake, which is indicated as A,
7 the uppermost horizontal line, would indicate that a
8 measurement from the high water mark would be taken
9 essentially to the treed edge of what is described here
10 as the swamp?

11 A. Yes.

12 Q. Okay. So that measurement would
13 start after not only -- in land, if you will, not only
14 from the lake, but also from the marsh and the swamp
15 area indicated on this map or diagram?

16 A. That's correct.

17 Q. Okay. Now, would you turn to
18 Appendix W. in your material. That's a letter from Mr.
19 Hagborg to Mr. McDermott. Am I correct that Mr.
20 McDermott is a director, I believe, of your
21 Association?

22 A. He's a director now. At that time,
23 he was not director, but he was the newsletter editor
24 for the Lake Weslemkoon Conservation Association and
25 past Director and President.

1 Q. So he is certainly an active member
2 of the Association. Now, would you turn to page 3 of
3 that letter. Do you have that?

4 A. Yes, sorry.

5 Q. That's fine, take your time.

6 A. It is reverse order here.

7 Q. Page 3 of that letter has -- contains
8 two items numbered 3 and 4?

9 - A. Yes.

10 Q. Now, you will agree with me that the
11 letter indicates in paragraphs 3 and 4 that the centre
12 line of the proposed road will be no closer than 100
13 metres from the treed edge of the swamp adjacent to
14 Otter Lake?

15 Perhaps we should just read out those two
16 paragraphs. No. 3 reads:

17 "Our measurements have the centre line
18 of the proposed road no closer than 100
19 metres from the edge of Otter Lake which
20 would occur at only one location."

21 And No. 4 says:

22 "The lake margin used for measurement
23 purposes is defined as the normal high
24 water level. Please find attached a
25 diagram to help illustrate this point."

1 Now, there is no diagram attached in your
2 materials, but am I correct that that's the same
3 diagram we were just looking at from Appendix N?

4 A. Yes. If I might interject here with
5 one bit of information.

6 In the past, the high level -- the normal
7 high water level of Lake Weslemkoon has varied
8 considerably. It has changed since the mid 19 -- or
9 early 1980's when it was considerably more regulated
10 and was drawn down on a regular basis in the fall.

11 So previously the normal high water
12 level, I would think, is much higher prior to the early
13 1980's than it currently is now.

14 Q. I see. But this letter, in any
15 event, indicates that the measurement would be taken
16 from the high water level and presumably that would be
17 the high water level at that time that the measurement
18 was to be taken, not necessarily the edge of the
19 water--

20 A. Historically.

21 Q. --but the normal high water level?

22 A. Yes.

23 Q. And that would be normal for this
24 point in time?

25 A. Yes.

1 Q. Okay. That would also affect the
2 marsh and so on, the reduction in that high water level
3 if that's the case.

4 MR. MARTEL: Could I raise a question,
5 then.

6 MS. BLASTORAH: Certainly, Mr. Martel.

7 MR. MARTEL: At that point when this was
8 being pointed out, did your Association and MNR
9 disagree at that point as to where the high water
10 level -- each of your understanding with respect to
11 where the high water level would start, because I
12 recall last week you thought it was much further out.

13 THE WITNESS: No.

14 MR. MARTEL: Did you disagree at that
15 point?

16 THE WITNESS: Mr. Martel, I think what
17 the actual disagreement over was as to what was lake
18 and what was marsh.

19 Marsh from the diagram appears to be
20 where aquatic material comes to the surface of the
21 water rather than what can be navigated by a boat,
22 considering that this is where a creek comes into the
23 lake itself and it's navigable for some considerable
24 distance from where you can originally view matter at
25 the surface of the water to where you must get out of

1 the boat and walk.

2 MR. MARTEL: I am just trying to find
3 out, though, did you express your disagreement at this
4 point?

5 THE WITNESS: Not as to the high water
6 level, no. We were just merely pointing out the
7 difference between what was considered to be lake and
8 what was considered to be marsh.

9 MS. BLASTORAH: Q. You will agree, Mr.
10 Armstrong, based on our examination just now that
11 regardless of how the Ministry may define the lake and
12 the marsh for other purposes, as you have seen on that
13 diagram, for purposes of measuring in this case they
14 are saying basically from the treed edge?

15 A. Yes.

16 Q. Thank you. Now, I would like to
17 clarify one other matter. You said in your direct
18 evidence that you felt because of the comments by Mr.
19 Hagborg in relation to this 400 metre reserve, if you
20 will, many cottagers left the annual meeting on July
21 30th and did not stay around to attend the inspection
22 of the proposed road location.

23 Did I understand you correctly?

24 A. That's correct.

25 Q. Now, in Ministry of Natural

1 Resources' interrogatory No. 10A, and you can turn to
2 that if you wish, I don't know that it's necessary, you
3 say that the comment -- I'm sorry, I will wait until
4 you have got the document in front of you.

5 Do you have that in front of you?

6 A. Yes.

7 Q. Now, you were asked in that question,
8 in relation to this statement from paragraph 14 of your
9 witness statement, where you said:

10 "Mr. Hagborg indicated that funding for
11 the road would not be received for five
12 years. He also indicated that a
13 400-metre shoreline reserve would be
14 established."

15 A question was posed to you by the
16 Ministry of Natural Resources:

17 "Please indicate where in the minutes of
18 the meeting..." and that would be
19 Appendix I in your source book,

20 "...or in any subsequent correspondence
21 from or to the Ministry of Natural
22 Resources a reference is made to the 400
23 metre shoreline reserve."

24 And your answer was:

25 "The proposed 400 metre reserves does not

1 appear in MNR correspondence, nor in the
2 meeting minutes, because Mr. Hagborg made
3 this statement on July 30th, 1988 after
4 the meeting had adjourned."

5 That was your answer when you answered
6 this interrogatory. So I may have misunderstood your
7 evidence-in-chief, but that is still your answer, the
8 comment was made after the meeting; is that correct?

9 A. It was made -- okay. The 400 metres,
10 okay, if I am understanding the question correctly, the
11 400 metres was discussed at that meeting, at the annual
12 meeting in 1988 and it was under dispute when we made
13 the actual field trip to the area later on the same
14 day.

15 Q. Okay. So your answer to the
16 interrogatory here was in error then where you indicate
17 that the comment was made by Mr. Hagborg after the
18 meeting had adjourned?

19 A. I'm sorry, I'm missing that.

20 Q. Okay. Maybe I can just go through
21 this again a little more slowly.

22 Your witness statement in Panel 14, and
23 you will see the quote from your witness statement at
24 the top of the interrogatory here, you said there that
25 Mr. Hagborg had indicated that a 400-metre shoreline

1 reserve would be established?

2 A. Yes.

3 Q. And that paragraph is talking about
4 the annual meeting?

5 A. Yes, that's correct.

6 Q. So we asked you where in the minutes
7 of meetings prepared by your Association or in any
8 other correspondence, basically, where that is
9 identified and your answer was: Well it's not in the
10 minutes because it wasn't said during the meeting, it
11 was said after the meeting.

12 That's how I understood your answer here.

13 A. Well, it was said during the meeting.

14 Q. So your answer here is in error?

15 A. Yes, that's in error.

16 Q. Okay, fair enough. In any event,
17 subsequent to this meeting, some members of the
18 association did stay around, and you were one of them,
19 and you attended this field inspection of the proposed
20 road location and you walked the proposed road
21 location?

22 A. That's correct.

23 Q. Okay. So there was never any
24 confusion about the actual proposed road route because
25 you actually walked it?

1 A. That's correct.

2 Q. Okay. Now, I understand that during
3 that tour you and Mr. Hagborg also viewed the area of
4 this proposed road location from a boat out on the
5 water?

6 A. That's correct.

7 Q. And maybe you could just indicate
8 that general area on the map. Perhaps if you could
9 flip that one back and refer to the one that was --

10 A. I can show it on this one, if you
11 want.

12 MS. BLASTORAH: Can the Board see that
13 all right?

14 We have the lake highlighted on the other
15 map, Mr. Armstrong, so it might be a little easier to
16 see.

17 Q. Now, we are looking at Exhibit 1437,
18 which is a map of the area. Thank you. Now, if you
19 could just indicate roughly the area that you were
20 viewing from the boat?

21 A. We actually viewed it from a number
22 of locations. Mr. Hagborg was -- when I first talked
23 with him, we met at Mr. Greer's or just at the end of
24 Mr. Greer's dock, so we viewed the location, okay,
25 approximately here and we also viewed it -- well, we

1 were in the boat and we were talking about it in a
2 number of locations, but between here and here.
3 (indicating)

4 Q. Okay, thank you. I will just wait
5 until you are sitting down again.

6 Now, at that time when you were talking
7 about this with Mr. Hagborg, I understand that you
8 talked to him about the red pine and white pine trees
9 on the ridge along that area and I believe you
10 mentioned that in your direct evidence?

11 A. That's correct.

12 Q. And that is referenced in Appendix J,
13 your Appendix J on page 2.

14 A. Mm-hmm.

15 Q. Now, you questioned, I understand,
16 Mr. Hagborg with regard to how the harvest of that area
17 might be handled if in fact there were to be
18 allocations in that area?

19 A. That's correct.

20 Q. There aren't any now; correct?

21 A. Correct.

22 Q. That is mentioned in Appendix J. as
23 well. Now, he advised you, and correct me if I am
24 wrong, that if allocated, that area would be harvested
25 by selection cut and that a skyline reserve would be

1 prescribed?

2 A. Yes, they would be using site line
3 forestry, I believe was the term.

4 Q. Okay. Now, that's confirmed in
5 Appendix P, paragraph 3?

6 A. That's correct.

7 Q. I will just give you a moment to
8 confirm that. Take your time?

9 A. Appendix P.

10 Q. Do you have that?

11 A. Yes. I am just trying to find to it
12 amongst all the documents here.

13 Q. I have the same problem, I'm afraid.

14 A. Which pile it is in.

15 Q. Mr. Armstrong, for your convenience,
16 I could just read it out for you.

17 A. I am to it now.

18 Q. Okay.

19 A. Yes, okay.

20 Q. That's confirmed there in paragraph
21 3?

22 A. Yes, that's correct.

23 Q. Okay. Now, again, there are no.
24 allocations in this area under the current plan?

25 A. No.

1 Q. And that's the stand that you
2 indicated in direct, I believe, that you didn't want to
3 see cut?

4 A. Yes.

5 Q. Just so we know what we are talking
6 about.

7 Now, next we move to Exhibit 1440 and
8 that's the file note about the Ashby-Trout Lake Road
9 proposal which your counsel marked. Would you turn to
10 that.

11 A. Yes.

12 Q. Leaving aside for the moment any
13 question as to what this file note is or whether it was
14 intended to be a summary of or minutes of the meeting
15 of July 30th, leaving that aside - and I think you
16 confirmed this with Mr. Cosman this morning - you
17 indicated that the statements made in that document are
18 accurate as far as they go?

19 A. Yes.

20 Q. Okay. And they indicate that during
21 his presentation, Mr. Hagborg advised that the access
22 point which had been in the original notice was no
23 longer part of the proposal, so there was no access
24 point in this proposal at this point?

25 A. That's correct.

1 Q. That in fact any access point would
2 be subject to an individual environmental assessment?

3 A. That's correct.

4 Q. Okay. And that is still the case
5 today, that would occur.

6 A. (nodding affirmatively)

7 Q. Now, he also advised you that the new
8 timber management planning process would be starting up
9 soon and he suggested that the Association become
10 involved and encouraged you to do so; is that correct?

11 A. That's correct.

12 Q. And he, I believe, explained the
13 various opportunities for formal stages for input and
14 so on?

15 A. That is correct.

- 16 Q. Okay. And he also indicated at that
17 meeting - and this is the last item on page 2 of that
18 document - that the regional ecologist and management
19 forester would be conducting an inspection of the
20 proposed road location on August 29th?

21 A. That's correct.

22 Q. And that cottagers might attend with
23 that gentleman if they wished?

24 A. That's correct.

25 Q. And, again, that's confirmed in your

1 documents, Appendix J, which is a letter from Mrs.
2 Nash, confirms that?

3 A. That's correct.

4 Q. So even if members of the Association
5 had left the original July 30th meeting, they would
6 have known, based on Mr. Hagborg's comments here, that
7 there was another opportunity if they wished to go and
8 view the road proposal location because they knew that
9 the regional ecologist was coming back on August 29th?

10 A. Not all the membership would know
11 that, though.

12 Q. But anyone in attendance at the
13 meeting?

14 A. Anyone in attendance at the meeting,
15 Yes.

16 Q. Okay, fair enough. And, in fact,
17 some members of the association did, I understand,
18 accompany Mr. Cuddy on that inspection?

19 A. To the best of my knowledge, I was
20 not at that particular meeting.

21 Q. Do you know whether -- it is my
22 information that Mrs. Nash, in fact, attended along
23 with some others?

24 A. Yes, it is my...

25 Q. Okay. So you can confirm Mrs. Nash?

1 A. I can confirm Mrs. Nash.

2 Q. Okay. You didn't attend on that
3 field inspection?

4 A. No, I did not.

5 Q. Would you refer to Exhibit 1452
6 marked this morning and that is field trip report filed
7 by Mr. Cuddy on the date of that inspection.

8 1453, I beg your pardon. I wrote down
9 the wrong number initially and now I can't read my own
10 writing. You have that; do you?

11 A. Yes.

12 Q. You will agree with me that this
13 document says in paragraph 2 that:

14 "The area in question is typical Canadian
15 Shield terrain with acidic rocky soils
16 and much of it appears to be burnt over
17 during this century."

18 And then in the first sentence under the
19 heading Life Science Significance, there is a sentences
20 which reads:

21 "There were no species of flora or fauna
22 observed that were considered to be of
23 significance."

24 You see that; do you?

25 A. Yes, I do.

1 Q. Okay. And then under Earth Science
2 Significance, the first sentences reads:

3 "No features of particular earth science
4 significance were noted."

5 You see that as well?

6 A. Yes, I do.

7 Q. And you indicated this morning that
8 you are not here to give expert evidence, and fair
9 enough?

10 A. No, I'm not.

11 Q. So if you disagree with those
12 comments, it would be on the basis of your personal
13 opinion?

14 A. Yes.

15 Q. Okay.

16 A. I might just add that to the best of
17 my knowledge this area was burned over in and around
18 1880 and there was also another fire in the area and
19 I'm not sure of the overlapping of the two fires in
20 1904.

21 Q. Okay, thank you. That would be
22 consistent with the comments in the report. Fine.

23 Now we move on to 1989 and still, as you
24 have indicated, the road is not yet built, and at this
25 point the road proposal was integrated into the new

1 timber management plan and basically we start all over
2 again?

3 A. That's correct.

4 Q. Okay. Now, January 31st, 1989 was
5 the date of publication of the invitation to
6 participate, and you agreed in our interrogatory No. 14
7 that Mrs. Nash received that as President of the Lake
8 Weslemkoon Conservation Association?

9 A. Yes.

10 Q. And on April 18th, '89, there was a
11 publication of notice of information centres to be held
12 in two locations, Northbrook and Madock, on May 19th
13 and May 26th respectively and that was received again
14 by Mrs. Nash as President of the Association?

15 A. Yes.

16 Q. And that is in MNR No. 14 again.

17 A. Yes.

18 Q. Now, would you turn to Appendix W,
19 please, in your material. That's the letter of
20 September 13th, 1989 to Mr. McDermott.

21 I'm sorry, I have written down September
22 13 and I may have the wrong item here. Just let me
23 confirm that. I'm sorry, it's a letter of October
24 31st, '89. I have somehow written down the wrong date
25 here.

1 Do you have that? It is Appendix W, in
2 any event?

3 A. Appendix W, yes, referring to the
4 letter of October 13th, 1989.

5 Q. Okay. I have October 31st.

6 A. October 31st.

7 Q. I see yours is caught in the corner
8 of the document there?

9 A. I can't see it in the corner.

10 Q. So we have basically agreed what we
11 are looking at?

12 A. Yes.

13 Q. Now, if you look to the fifth
14 paragraph of that document, you will see that the
15 author of this letter, who is Mr. Hagborg, indicates
16 that:

17 "The timing of the two information
18 centres held on the 19th of may and the
19 26th of May, 1989 were held on those
20 dates because the Ministry felt that
21 those dates would coincide with most
22 cottagers opening up their cottages for
23 the summer."

24 That's what the letter says?

25 A. That's correct.

1 Q. Am I correct that Northbrook and
2 Madock are located on the two main highways which would
3 basically be travelled by most people coming to the
4 Lake Weslemkoon cottage area?

5 A. That is correct.

6 Q. And that letter, Appendix W, also
7 notes that you and Mrs. Nash were advised that
8 information from the information centre would be on
9 display until the end of September?

10 A. Yes.

11 Q. And that's at the top of page 2 of
12 the letter?

13 A. Yes.

14 Q. Are you able to confirm that that
15 information was in fact on display until the fall of
16 1989?

17 A. It was certainly on display at least
18 until -- towards the end of June of 1989 when I
19 attended and talked with Mr. Spence.

20 Q. Okay, fair enough.

21 A. I might also point out, if you look
22 at the days and times that are indicated in this
23 letter, I believe that they are weekdays.

24 Q. Which days and times are these now?

25 A. May 19th and May 26th. I believe

1 those are weekdays, if I'm not mistaken.

2 Q. Unfortunately, I don't have a 1989
3 calendar, so I can't confirm that.

4 A. I believe they are.

5 Q. I believe they are both Fridays?

6 A. I believe so myself.

7 Q. So that would in fact be the start of
8 a weekend when most --

9 A. That would be the start of a weekend,
10 but, for example, if somebody was coming from Toronto
11 at that particular time of year and if they were to get
12 off work at, say, five o'clock in the evening, it would
13 be very difficult for them to reach that particular
14 location by eight o'clock in the evening, in most cases
15 if they had to go home and unload their car to go to
16 their cottage.

17 I would suggest that you would probably
18 have difficulty making it there by eight o'clock in the
19 evening.

20 Q. Fair enough. But you would agree
21 that the comment that most people would be opening up
22 their cottages by this time would indicate that a
23 number of people would be in the area; in other words,
24 it is sort of the cottaging season?

25 A. That's correct.

1 Q. Okay, thank you. Now then, Madock
2 information centre, which was May 26, I believes, was
3 in fact attended by Mrs. Nash, as you have agreed in
4 interrogatory No. 14 again.

5 On June 6th, 1989 there was an invitation
6 to the Lake Weslemkoon Conversation Association to
7 attend a meeting of a resource interest group which was
8 to be held on July 8th, and you agree that your
9 Association had received that invitation?

10 That's noted in MNR interrogatory No.
11 14(d) and we have filed the letter which is that
12 invitation as Exhibit No. 1454.

13 A. Yes.

14 Q. And you have agreed the Association
15 received that.

16 And that letter, if you would like to
17 just turn to it for a moment.

18 A. Yes.

19 Q. That letter says in paragraph 2:

20 "This meeting will provide local interest
21 groups and forest industry representative
22 with a special opportunity to review,
23 discuss and comment on Tweed district's
24 resource management programs. The day
25 will focus on timber management and the

1 current updating of the Crown timber
2 management plan."

3 And that's what the invitation indicates?

4 A. That's correct.

5 Q. Okay. Now, on June 23rd, and again
6 you discussed this in your evidence-in-chief, June
7 23rd, 1989, you attended the district office and
8 reviewed the information that was on display there?

9 A. That's correct.

10 Q. Is that when you obtained the map
11 which is included in your materials as Appendix R?

12 A. That is the -- yes.

13 Q. The May map?

14 A. Yes,

15 Q. Okay.

16 A. As opposed to the Appendix T which
17 was filed this morning, yes.

18 Q. Yes. The full Appendix T you mean?

19 A. Yes.

20 Q. Now, if you could just turn to
21 Appendix R for a moment.

22 A. Yes.

23 Q. That map is dated May 1989?

24 A. That's correct.

25 Q. Do you have a full copy of the map

1 yourself?

2 A. Yes, I do. I believe Mr. Lindgren
3 actually is in possession of it.

4 Q. Okay.

5 MS. BLASTORAH: Do you have that handy,
6 Mr. Lindgren, because I, unfortunately, only have one
7 copy?

8 MR. LINDGREN: It is not handy.

9 MS. BLASTORAH: Perhaps we can make do
10 with the one we have got and I will just walk around
11 with it.

12 Q. Now, we marked this morning as
13 Exhibit 1456, Mr. Armstrong, the complete map that you
14 were provided with on that date and I will just show
15 you this map and ask you to confirm that it is the same
16 thing -- I'm sorry, this is a different one than the
17 one you are unfolding.

18 A. Yes, we discussed that.

19 Q. I will give it to you in just a
20 moment. This is a complete copy of the May 1989 plan?

21 A. Okay.

22 MS. BLASTORAH: Mrs. Koven, I will
23 provide that to the Board in just a moment. I think
24 for the purposes of my question it is adequate to look
25 at Appendix R.

1 THE WITNESS: If the Board would like
2 this, I pretty well memorized this map.

3 MS. BLASTORAH: Okay, maybe that would be
4 more helpful.

5 THE WITNESS: It would be suitable for
6 them to have a look at it.

7 MS. BLASTORAH: Thank you. (handed)

8 MADAM CHAIR: Thank you. What are we
9 going to be looking at, Ms. Blastorah?
10 ---Discussion off the record

11 MS. BLASTORAH: Please let me know if you
12 would like to take another look at that map to
13 confirm --

14 THE WITNESS: I already have a small
15 version of it here.

16 MS. BLASTORAH: Q. Okay. I am not sure
17 that the one that you have will be adequate. Please
18 let me know if you want to look another look at the big
19 map.

20 Do you agree that the original of that
21 map, the complete map, in other words, indicates on the
22 bottom that areas of operation are subject to change?

23 A. Yes, I do agree with that.

24 Q. Then on July 17th, 1989 Mrs. Nash
25 received a letter from Mr. Hagborg inviting her and

1 members of the Association to attend at the district
2 office, and that was marked this morning as Exhibit
3 1455, if you would like to turn to that.

4 A. Yes, I have it right in front of me.

5 Q. Okay. That reads:

6 "We are writing to invite any interested
7 members of your association to visit our
8 Tweed district office any weekday to
9 view our timber management plan and
10 to discuss our five year resource
11 management proposals."

12 The next paragraph reads:

13 "If a Saturday is more suitable, I would
14 suggest one of the following dates:
15 August 12th, 19th, 26th or September 16th
16 or 23rd."

17 That's what the letter says?

18 A. That's correct.

19 Q. Okay. The next item in the
20 chronology then is October 31st, 1989 and that's your
21 Appendix W, we have already looked that, that's a
22 letter from Mr. Hagborg to Mr. McDermott indicating
23 that a special information centre was in fact to be
24 held on Saturday, November 18th?

25 A. That's correct.

1 Q. And that was in relation to the draft
2 plan review stage and the notice of draft plan review
3 was received by Mrs. Nash on behalf of the LWCA on or
4 about November 6th, in that peiord?

5 A. Yes, that's correct.

6 Q. And you agreed to that in one of our
7 interrogatories, No. 20?

8 A. Yes.

9 Q. Now, on November 18th, that
10 information centre was held on the Saturday to review
11 the draft plan and that was attended, as I understand
12 it, by Mrs. Nash, Mr. Greer and Mr. Sheridan Smith on
13 behalf of the LWCA?

14 A. Yes.

15 Q. Okay. And I understand that they
16 reviewed detailed maps at that location?

17 A. I was not in attendance at that, so I
18 cannot accurately --

19 Q. Maybe if you could just refer to
20 Appendix X of your material. You will just note this
21 is a letter from Mr. Greer, one of those in attendance,
22 to the Ministry of Natural Resources, and about the
23 fifth line up from the bottom on page one--

24 A. Yes.

25 Q. --I would just like the Board to

1 catch up. Page 1, about the fifth line up from the
2 bottom. Mr. Greer notes that:

3 "There had been an examination of
4 your..." being the Ministry of Natural
5 Resources,

6 "...detailed maps showing your timber
7 management displayed at the Tweed
8 office."

9 So that would, would you agree, confirm
10 that they did in fact review maps?

11 A. Yes.

12 Q. Okay. Now, we finally get to the
13 other complete map that we provided to you which is the
14 blue copy marked as Exhibit 1457.

15 A. Appendix T.

16 Q. Appendix T. And, again, this is the
17 complete map which you have excerpted in your Appendix
18 T?

19 A. That's correct.

20 Q. Now, in Appendix R, you indicated in
21 your evidence-in-chief that there was no allocation in
22 the area of Mackie Bay which is where your cottage is?

23 A. Yes.

24 Q. And you pointed out --

25 A. My mother's cottage.

1 Q. Your mother's cottage, I beg your
2 pardon. You pointed out that on Appendix T, which
3 again this is the full map, there is in fact an
4 allocation.

5 And I have taken the liberty, Mrs. Koven,
6 of highlighting that in pink on these enlarged maps.

7 And this is the allocation you were
8 referring to, this pink dot on the--

9 A. That's correct.

10 Q. --Exhibit 1457.

11 Okay. Now, you said that you first
12 learned of this allocation when your mother was
13 contacted by then -- I think you said in your direct,
14 by the then president of the association; am I correct?

15 A. Yes, that is correct.

16 Q. And that would have been Mrs. Nash at
17 that time?

18 A. Yes.

19 Q. Okay.

20 A. This would be in the fall of 1989?

21 Q. Well, yes. You didn't say exactly --

22 A. No, it would be Mr. Greer at that
23 point.

24 Q. I see. So, Mr. Greer would have
25 contacted --

1 A. Mr. Greer, yes.

2 Q. And this conversation, in any event,
3 took place in the fall?

4 A. Yes.

5 Q. Okay. Now, you said that when your
6 mother received that information, I guess from Mr.
7 Greer--

8 A. Yes, verbally.

9 Q. --verbally, that there were
10 allocations in the area of your mother's cottage?

11 A. That's correct.

12 Q. She contacted the district to get
13 more information?

14 A. Yes, that's correct.

15 Q. Would you turn to exhibit 1458. It
16 looks like this, Mr. Armstrong. (indicating)

17 A. I have it right here. I am just
18 trying to reach through the pile of paper.

19 Q. Okay. Now, this is a record of a
20 verbal transaction and it indicates that a Mrs. Beryl
21 Edminson, a cottager on Lake Weslemkoon contacted the
22 Ministry of Natural Resources on November 29th, 1989?

23 A. That's correct.

24 Q. And is that your mother, Beryl
25 Edminson?

1 A. Yes, that's her maiden name.

2 Q. Okay. Now, this conversation -- this
3 indicates that the conversation took place and that
4 your mother asked for and was provided with information
5 about timber management activities planned for the west
6 side of Lake Weslemkoon?

7 A. That's correct.

8 Q. And it also indicates that she was
9 provided with detailed maps?

10 A. That's correct.

11 Q. Was appendix T one of those maps?

12 A. Yes, it was.

13 Q. Now, the area that is described here
14 in this transaction record, that is the same area which
15 is shown on Appendix T as the highlighted area?

16 A. That's correct. According to the
17 scale of the map, it's not accurate -- it's not easy to
18 see where the actual area is, but it is substantially
19 the same area.

20 Q. Okay. And it is basically, if I am
21 correct, the area behind the peninsula?

22 A. That's correct.

23 Q. That comes out into Mackie Bay?

24 A. Yes.

25 Q. Okay. Now, if I could just ask you

1 to flip down the large map again. Thank you.

2 - This is Exhibit 1463 marked this morning
3 and I indicated when we marked this that this is a
4 forest stand map showing reserves.

5 Now, you see the red area indicated on
6 the peninsula into Mackie Bay?

7 A. Yes.

8 Q. You will agree that that whole
9 peninsula essentially is marked in red?

10 A. That's correct.

11 Q. I am sort of looking at it across the
12 room, so I just --

13 A. Yes, this area here. (indicating)

14 Q. And that area is consistent with what
15 is described in this verbal transaction record as the
16 reserve; is that correct?

17 A. That's correct.

18 Q. Okay. And that would be consistent
19 then with what your mother was told?

20 A. Yes.

21 Q. You will agree that basically the
22 whole peninsula is included in that reserve?

23 A. Yes.

24 Q. Okay. Now, in your direct evidence,
25 you indicated that you had not been involved in the

1 1985 to '90 timber management plan?

2 A. That's correct.

3 Q. And I believe you also said that you
4 had not reviewed that plan?

5 A. No, I did not.

6 Q. You did not, okay. In any event, my
7 notes of your direct evidence indicate that in response
8 to questioning from the Board, I believe it was, you
9 said that you assumed the allocations in this area
10 would have shown in the maps in the 1985 to 1990 plan,
11 you just weren't able to confirm that because you
12 hadn't looked at it?

13 A. That's correct.

14 Q. Okay. Now, this verbal transaction
15 record, which is Exhibit 1458, indicates in part:

16 "Mention that R. Armstrong's area south
17 of Aid Creek maybe reissued if he does
18 not finish this year (stand No. A33)."

19 That's a quote from the transaction
20 record.

21 A. Yes.

22 Q. Okay. Now, I am asking you this just
23 hypothetically, but if that operator, this Mr.
24 Armstrong, did not finish harvesting his allocations
25 under the 1985 to '90 plan so that his existing

1 allocation had to be reissued for inclusion in the new
2 plan, the 1990 to 2010 plan, would you agree that those
3 reissued allocation should be included in maps prepared
4 for the new plan?

5 A. Yes, and they should be included in
6 maps that went all the way through the plan, including
7 the previous map to Appendix T.

8 I might add that there are two directors
9 of the Association that have cottagers on the west side
10 of Mackie Bay and they most certainly were not aware of
11 the area on Appendix T indicated in pink here, and that
12 this was to be harvested prior to -- that it was
13 included in the 1985 management plan and not included
14 in the maps for the 1990-95 timber management plan.

15 Q. And this is in the main map you are
16 talking about--

17 A. That's correct.

18 Q. --because those allocations were
19 included in the T map, the Appendix T map?

20 A. Yes, the T map.

21 Q. Okay. So --

22 A. They certainly weren't aware of it
23 from the May map.

24 Q. Right. But in the August map they
25 were aware of it?

1 A. Yes, but they didn't receive copies
2 of this map.

3 Q. Do you know whether they contacted
4 the district and either attended to review any of the
5 documentation on display there or whether they
6 requested maps?

7 A. I can't accurately say.

8 Q. Okay, fair enough. You don't know
9 whether they attempted to say anything.

10 Now, if it were the case - and again I am
11 asking this as a hypothetical - if it were the case
12 that in August of 1989 it became apparent to the
13 district staff that an operator with allocations near
14 your cottage, under the '85 to '90 plan, was not going
15 to finish that harvesting before the end of the
16 previous plan, do you agree that those allocations
17 should then be added to any existing maps if it became
18 apparent at that time in August?

19 A. Yes, but I would think that he would
20 probably, because of the area involved where he was
21 actually going to be doing the operations prior to
22 that, I think we would be well aware that he wasn't
23 going to get nearly that far and he probably should
24 have advised the Ministry of Natural Resources that in
25 fact he wouldn't get to it and it should have been

1 included in the May map.

2 Q. In any event, though, you would agree
3 that once the Ministry was conscious of the fact that
4 he may not finish, that should be included in the maps?
5 Whether or not it was in earlier maps, it should be
6 added?

7 A. Yes.

8 Q. And that was in fact done?

9 A. Yes.

10 Q. Okay. Would you turn now to the
11 notice of inspection of the approved timber management
12 plan, and that has been marked as Exhibit 1459.

13 MS. BLASTORAH: Mrs. Koven, were you
14 planning to take a break this morning?

15 MADAM CHAIR: No, we were going to stop
16 for lunch at twelve o'clock.

17 MS. BLASTORAH: Okay, that's fine.

18 Q. Now, this is Exhibit 1459, the notice
19 of inspection of the approved plan, and you have agreed
20 that Mrs. -- sorry, Mr. Greer received that as
21 president of your Association and that's noted in our
22 interrogatory No. 21(b)?

23 A. Yes.

24 Q. Now, you will see on this notice - I
25 believe it is on both the notice and the covering

1 letter that was sent out when this notice was mailed -
2 that it indicates:

3 Operations scheduled to be carried out
4 under this plan are scheduled to
5 commence on April 9th, 1990 under the
6 direct of the approved annual work
7 schedule which is available for
8 inspection."

9 A. That's correct.

10 Q. That's what it says on the notice.

11 Now, you would agree that -- or would you
12 agree that that's something people would want to know?
13 People reading this notice would want to know when
14 those operations were to go to commence?

15 A. Certainly because that's the meat and
16 potatoes of the entire operation, when it is actually
17 going to commence, not the planning process.

18 Q. Okay. Well, okay, fair enough.
19 That's your opinion.

20 Now, you agree that subsequent to receipt
21 of this notice, in fact Mrs. Nash did attend to inspect
22 the approved plan and that is indicated in MNR
23 interrogatory No. 21(d)?

24 A. That's correct.

25 Q. Is that the visit, by the way,

1 referred to in your paragraph 36?

2 A. My paragraph --

3 Q. I'm sorry, of your witness statement.

4 You say in March 1990 a representative of
5 the Association attended the Tweed district office?

6 A. Yes.

7 Q. So that's that visit. Okay.

8 Now, she was informed while she was there
9 of the next resource users or resource interest group
10 meeting, I believe, and a notice was sent to her about
11 that meeting to be held on June 23rd and I believe you
12 agreed to that in our interrogatory No. 21(d)?

13 A. Yes.

14 Q. And that meeting was in fact held on
15 June 23rd?

16 A. Yes.

17 Q. And members of your Association did
18 attend?

19 A. Yes.

20 Q. Okay. And that's indicated in your
21 Appendix Y?

22 A. Yes.

23 Q. Now, could you turn to that, please,
24 Appendix Y. This letter from Mr. Chamberlain indicates
25 in the second paragraph that members of your

1 association who attended that June 23rd resource
2 interest group meeting were informed at that time that
3 construction of the Ashby-Trout Lake Road was going to
4 begin under the approved plan?

5 A. Yes, that's correct.

6 Q. And you've indicated, in your opinion
7 that's the meat and potatoes?

8 A. Yes.

9 Q. Okay. Again, that's confirmed in a
10 letter to Mrs. Greer, that letter to Mrs. Greer which
11 is Appendix Y which, again, advises that construction
12 is about to commence.

13 Now, the next thing that we have in our
14 chronology is -- I beg your pardon, that letter,
15 Appendix Y, is July 3rd; correct?

16 A. That's correct.

17 Q. And on the same data, a letter was
18 sent to the Ministry of the Environment and this is
19 marked as Exhibit 1442, and that letter -- perhaps I
20 will just find that myself.

21 It is, as I indicated, dated July 3rd,
22 1990 and this is a letter pursuant to the requirements
23 of the class environmental assessment for access roads
24 and that's indicated in the first line?

25 A. I'm sorry, I don't that letter right

1 in front of me.

2 Q. Oh, I'm sorry. Perhaps Mr. Lindgren
3 can provide you with it.

4 MR. LINDGREN: (handed)

5 MS. BLASTORAH: Thank you, Mr. Lindgren.

6 MADAM CHAIR: Are you referring to
7 Appendix Z, Ms. Blastorah?

8 MS. BLASTORAH: No. This is a letter
9 filed by Mr. Lindgren as Exhibit 1442. It is a July
10 3rd, 1990 letter to the director of the Environmental
11 Assessment Branch.

12 MADAM CHAIR: Yes, thank you.

13 MS. BLASTORAH: Q. That letter indicates
14 that they are forwarding a summary of a finalized
15 proposal and that this letter is being sent pursuant to
16 the requirements of the Ministry of Natural Resources'.
17 class environmental assessment for access roads?

18 A. That's correct.

19 Q. Okay. So this letter has nothing to
20 do with your -- with the Association's designation
21 request because, in fact, it is before you made your
22 designation request?

23 A. That's correct.

24 Q. Okay. So this just has to do with
25 the requirements of that class environmental

1 assessment?

2 A. That's correct.

3 Q. Now, page 2 of that document confirms
4 that the timber management plan for the 1990 to 2010
5 period was already provided to the Ministry of Natural
6 Resources in accordance with procedures under this
7 class environmental assessment?

8 A. Yes.

9 Q. And you are aware they have that
10 document?

11 A. That is indicated in the last
12 paragraph, yes.

13 Q. Okay. And that letter also
14 indicates, at the bottom of page 1, that the span of
15 the bridge across Ashby Creek--

16 A. Yes.

17 Q. --has been -- the span has been
18 expanded and the right-of-way narrowed at that point to
19 minimize stream disturbance?

20 A. That's correct.

21 Q. Okay. That's, again, the proposed
22 road, it's not yet constructed?

23 A. Yes.

24 Q. Okay. Now, the next item that we
25 have is the July 13th request for designation of two

1 individual environmental assessment status of the
2 Ashby-Trout Lake Road and that was made by your
3 Association.

4 I believe we have that in your material,
5 I'm not sure. Is that one of your references, Mr.
6 Armstrong, do you recall?

7 A. I believe it was.

8 MR. LINDGREN: Appendix Z.

9 MS. BLASTORAH: Appendix Z. Thank you,
10 Mr. Lindgren. I, too, am losing the paper war here.

11 Q. That's a letter from Mr. Betts?

12 A. That's correct.

13 Q. Now, on July 31st, additional
14 information was provided to Mr. Greer and that is
15 indicated in appendix -- or, sorry, Exhibit 1460 marked
16 this morning.

17 A. Yes.

18 Q. And Mr. Greer was then president of
19 your Association?

20 A. That's correct.

21 Q. And the information he was provided
22 with was essentially details of construction of the
23 road--

24 A. That's correct.

25 Q. --because you had just been advised

1 that construction was about to commence?

2 A. That's correct.

3 Q. And that letter also indicates, I
4 believe, that the right-of-way had been narrowed at the
5 bridge crosssing?

6 A. Yes, that's correct.

7 Q. Now, the next thing that occurs
8 then - we wrote this in, it is in handwriting on the
9 chronology, Mrs.. Koven, the August 9th date, just so
10 everyone knows where we are.

11 On August 9th, 1990, an information
12 package was provided to the Ministry of Natural
13 Resources -- the Ministry of the Environment, rather,
14 Environmental Assessment Branch by the Ministry of
15 Natural Resources and that is indicated in a letter
16 marked as Exhibit 1461?

17 A. Correct.

18 Q. And this lists a number of items that
19 are included there, there is about two and a half pages
20 of items -- I beg your pardon, about two pages of items
21 included with this letter. I haven't bothered
22 reproducing all of those, and that would be in addition
23 to the plan and supplementary documentation which was
24 already in the hands--

25 A. That's correct.

1 Q. --of the Ministry of the Environment.
2 Okay.

3 Were you aware that that material is
4 required by the Ministry of of Natural Resources to be
5 provided?

6 A. No, I am not aware of that.

7 Q. Okay. So no one had advised you that
8 MNR is obliged to provide a package of information?

9 A. No.

10 Q. Were you aware that the Ministry of
11 Natural Resources also provides a copy of the complete
12 timber management plan, including all supplementary
13 documentation to the Ministry of the Environment every
14 time a plan is approved and also of the draft plan and
15 so on?

16 A. No, I was not, but I assume that the
17 final plan would in fact be given in copy form to the
18 Ministry of the Environment.

19 Q. Okay, fine. Now, next we have
20 Exhibit 1446B, which is a letter of August 17th, 1990.

21 MADAM CHAIR: Which exhibit number is
22 that, Ms. Blastorah?

23 MS. BLASTORAH: Exhibit 1446B, Mrs.
24 Koven. That was marked last week.

25 MADAM CHAIR: Please go ahead.

1 MS. BLASTORAH: Q. You have it, okay.

2 A. Yes.

3 Q. That is a letter -- a memorandum,
4 rather, to Mr. Wood, the Provincial Unit Supervisor of
5 the Environmental Assessment Branch of the Ministry of
6 the Environment from Mr. Hagborg of the Tweed District
7 office of the Ministry of Natural Resources?

8 A. That's correct.

9 Q. Now, in relation to this letter, Mr.
10 Lindgren asked you how you felt about the comment on
11 page 1 that Mr. Betts had been left off the mailing
12 list through an oversight?

13 A. Yes.

14 Q. And I believe you responded that --
15 and I think I got your words down accurately. You
16 thought it would be strengthening the imagination to say
17 this was an oversight.

18 Now, you have agreed that officials of
19 the Lake Weslemkoon Conservation Association have
20 received all of the relevant notices and have
21 participated through the original amendment process, as
22 well as the timber management process, so I assume you
23 didn't intend to imply by that remark that somehow, this
24 was a plot by the Ministry of Natural Resources or
25 anything to keep Mr. Betts in the dark as to what was

1 happening?

2 A. No, it certainly could have been an
3 oversight, but...

4 Q. Okay. And certainly that wouldn't be
5 a very effective way to go about keeping Mr. Betts in
6 the dark.

7 A. I think what it would basically boil
8 down to is, if you didn't receive a response from Mr.
9 Betts, I would think that they might have been aware of
10 the fact that perhaps he didn't receive it in the mail
11 or something because Mr. Betts is in the habit of
12 returning his letters fairly promptly.

13 Q. Right. This is a response to what?

14 A. To any letters or documents that
15 would come from the Ministry of Natural Resources that
16 could elicit some sort of a response from him.

17 Q. But you are not speaking of letters
18 specifically to Mr. Betts that weren't responded to,
19 these would be general notices and so on?

20 A. Yes. Well, I'm speaking of any
21 notices that would go to Mr. Betts.

22 Q. Right. And those were all responded
23 to by your Association.

24 I am just clarifying what we are talking
25 about, that's all.

1 A. What I'm saying is, if they did not
2 receive a response, things do unfortunately get lost
3 within our mail system--

4 Q. Yes, unfortunately that's true.

5 A. --you know, I would have thought that
6 it might have been suspected by them that in fact he
7 had not received it in the mail, if they did not
8 receive a response from Mr. Betts himself.

9 Q. Okay. Now, on November 2nd, the next
10 item on the chronology, and I think you may have
11 mentioned this this morning or I believe you agreed to
12 this -- I'm sorry, did I say November 2nd?

13 A. Yes.

14 Q. I mean October 2nd. You agreed this
15 morning, I think, in going through this list quickly
16 that a meeting was held between your Association, MNR
17 and MOE on that date to look at the proposed road
18 locations?

19 A. That's correct.

20 Q. And, again, the road isn't --

21 A. And they actually travelled to the
22 area to have a look at it.

23 Q. Right. And that was a field
24 inspection?

25 A. That's correct.

1 Q. Again, the road isn't built, so they
2 would have been looking at where it would go?

3 A. That's correct.

4 Q. Okay. Am I correct that the people
5 in attendance on behalf of your Association on that
6 date were Mr. Greer, who is, I believe, still
7 President?

8 A. That's correct.

9 Q. A Mr. Sheridan Smith?

10 A. That's correct, he is the Director of
11 the Association.

12 Q. Okay. He is the Director, fine. Mr.
13 Mike Benson?

14 A. That's correct. He is an Engineer
15 and a Director of the Association.

16 Q. He is a cottager; is he?

17 A. Yes, he is?

18 Q. And Doug Betts?

19 A. That's correct.

20 Q. Okay. And on that same day, I
21 believe Mr. Hagborg suggested that some of the people
22 there take a fly over of the area north and east of the
23 proposed road location and he suggested that Mr. Smith
24 might be an appropriate person to go on behalf of the
25 Association because he has some engineering background?

1 A. That's correct.

2 Q. And, in fact, that fly-by or fly over
3 the area did take place?

4 A. That's correct.

5 Q. Now, after that fly-by, again on the
6 same day, there was a reconvened meeting or a meeting
7 convened at the Ministry of Natural Resources' office
8 in Tweed and, again, there were representatives of the
9 Ministry of the Environment, natural Resources and
10 member of your Association at that meeting.

11 Can you confirm that?

12 A. Yes, that's correct.

13 Q. And I believe at that meeting, or it
14 is my information that at that meeting possible
15 modifications to what is shown on - I'm sorry, I will
16 have to ask you to flip that map up again, I have
17 forgotten the exhibit number. Thank you. - 1437,
18 alternative one on that map, I believe possible
19 modifications to that route were discussed at that
20 meetings?

21 A. That's correct.

22 Q. And it is also my information that
23 Mr. Smith, the one who had gone on the fly over of the
24 area, agreed that it would be extremely difficult to
25 build a road east -- north and east, if you will, of

1 high dam area?

2 A. That is correct.

3 Q. Okay. And that would be due to
4 terrain constraints?

5 A. That's correct.

6 Q. Now, at that meeting, the Ministry of
7 Natural Resources offered to inspect possible
8 modifications to the proposed road location, shown as
9 alternative 1 on exhibit 1437, and I believe those
10 modifications being discussed at that point were on the
11 other side of what's known as MacKenzie Marsh?

12 A. That's correct.

13 Q. Could you indicate for the Board
14 where MacKenzie Marsh is on the map? We are looking at
15 Exhibit 1437.

16 A. On this map, we are looking to the
17 this area I believe. (indicating)

18 MADAM CHAIR: Mr. Armstrong --

19 MS. BLASTORAH: I'm sorry, if you could
20 just step to the other side it might be easier for the
21 Board.

22 THE WITNESS: MacKenzie Marsh is over in
23 this area in here. (indicating)

24 MS. BLASTORAH: Q. Maybe you could just
25 draw a circle around that, if you don't mind. Maybe

1 with a fine point. I can give you one of mine?

2 A. I can do it with a pen, if that's all
3 right.

4 Q. Okay, that's fine. So you are
5 indicating with a blue ballpoint pen by a circle on
6 Exhibit 1437 an area known as MacKenzie Marsh, and
7 maybe you could just mark it MM or something. Okay.

8 I believe the Association representatives
9 at that meeting indicated to the Ministry of the
10 Environment and Ministry of Natural Resources'
11 representatives that they would inspect that area on
12 their own?

13 A. That's correct.

14 Q. And that they would get back to the
15 district once they had done that.

16 A. That's correct. I believe that they
17 indicated that they would have a look at it on the
18 Thanksgiving holiday weekend by ground cruising the
19 area.

20 Q. Do you know -- I'm not aware of any
21 response back to the district after that review. Are
22 you aware of any response?

23 A. Yes, there was a conversation, to the
24 best of my knowledge, that took place on October the
25 10th.

1 Q. Okay. So that's the one with Mr.
2 Betts?

3 A. That's correct.

4 Q. There was no contact between there?

5 A. No.

6 Q. Now, on October 3rd there was an
7 inspection of the proposed modification, this area
8 northeast of MacKenzie Marsh, by representatives of the
9 Ministry of Natural Resources and Mr. Betts was advised
10 of that by phone call on October 4th?

11 A. I believe so. I can't confirm that,
12 but I believe he was.

13 Q. Okay. Maybe to move things along, I
14 would just ask you to check with Mr. Betts, and if you
15 don't agree with that you can get back to us.

16 A. All right.

17 Q. Thank you. Now Mr. Betts, it's my
18 information, was advised in that conversation that this
19 proposed modification northeast of MacKenzie Marsh was
20 not feasible due to topography constraints again?

21 A. That's correct.

22 Q. It is my information that in that
23 conversation there was a suggestion by Mr. Betts of
24 another possible modification which would be to cross
25 Ashby Creek slightly north of the proposed crossing

1 shown in alternative 1 on Exhibit 1437, and that would
2 be at an area that I understand is locally known as the
3 minnow traps?

4 A. That's correct.

5 Q. Okay. And Mr. Hagborg agreed to
6 inspect that possibility and advise about whether it
7 was feasible or not?

8 A. I believe he wanted to talk with the
9 engineer responsible for building the bridge across the
10 area.

11 Q. Okay. And that inspection took place
12 on October 10th by Mr. Hagborg and the regional
13 engineer?

14 A. That's correct.

15 Q. And Mr. Betts was advised of that by
16 a phone call again, I believe, on October 10th?

17 A. That's correct. It was included in
18 the same conversation.

19 Q. Okay. Am I correct that Mr. Betts
20 was advised in that conversation that the crossing at
21 the minnow traps appeared to be feasible?

22 A. That's correct.

23 Q. Now, on October 16th, the next event
24 was a telephone call from Mr. Betts to Mr. Hagborg and
25 there was a letter following that telephone

1 conversation, again from Mr. Betts, setting out a
2 proposal for an agreement on the Ashby-Trout Lake Road
3 which, if accepted, would lead to a withdrawl by your
4 conservation association of their designation request?

5 A. That's correct.

6 Q. And that is the document which has
7 been filed as Exhibit 1447; correct?

8 A. That's correct.

9 Q. Okay. Now, are you aware personally
10 of any relationship between the date of that letter,
11 which was coincidentally October 16th, the day before
12 you were to begin your evidence before this Board, and
13 the fact that you were giving testimony before this
14 Board? Are you aware of any relationship?

15 A. No, I'm not aware of any interlocking
16 relationship, certainly.

17 Q. So if anybody were to get an
18 impression that it was somehow odd, it would just be a
19 coincidence?

20 A. It would be certainly a coincidence,
21 yes.

22 Q. Thank you. Now, perhaps I can just
23 ask you to indicate on the map where the minnow traps
24 is.

25 A. The minnow traps area is

1 approximately here. (indicating)

2 Q. You have marked that with a small
3 ballpoint dot?

4 A. I will put MT.

5 Q. Okay. MT for minnow traps.

6 MADAM CHAIR: Ms. Blastorah, we want to
7 break for lunch shortly.

8 MS. BLASTORAH: We could break at this
9 point if that would be convenient.

10 MADAM CHAIR: All right. And how long
11 will you need Mr. Armstrong this afternoon?

12 MS. BLASTORAH: Not as long as I had
13 anticipated. I expect perhaps another hour at the
14 outside.

15 MADAM CHAIR: And, Mr. Lindgren, how long
16 will you be? Are you going to re-examine?

17 MR. LINDGREN: Extremely briefly, Madam
18 Chair.

19 MADAM CHAIR: So we can expect not to
20 keep Mr. Armstrong for longer than an hour and a half
21 this afternoon?

22 MR. LINDGREN: That's certainly my hope
23 and expectation.

24 MS. BLASTORAH: I may very well be able
25 to finish in less than half an hour.

1 them up.

2 MS. BLASTORAH: Maybe if I could just
3 help, Mr. Martel.

4 Q. Mr. Armstrong, you indicated this
5 morning, and you did in fact answer in an
6 interrogatory, our No. 6, that you had received the
7 publication of the notice or -- let me just your exact
8 words.

9 A. Are you referring to question No. 6?

10 Q. No. 6, yes. I think you agreed the
11 Association did receive notice of the information
12 centre with respect to the plan on or about November
13 26th, and I think you indicated this morning that that
14 was the first notice in Appendix B; is that correct?

15 A. Yes.

16 Q. And you got that yourself; did you?

17 A. Okay. What ended up happening is, at
18 that point the president of the association, Marilyn
19 Nash, received that notice and I, in turn, received one
20 at a slightly later date.

21 Q. In any event, you did know prior to
22 December 6th or 7th - I have forgotten the exact date -
23 that this plan was being prepared because that's the
24 day you called the district?

25 A. That's correct.

1 MS. BLASTORAH: And that was shown in
2 Exhibit 1438, Mr. Martel. There is a record of both
3 Mrs. Nash and Mr. Armstrong having called the district
4 office on December 7th.

5 MR. MARTEL: My only concern is, I have
6 got in my notes: Received the letter on December 16th
7 of the meeting for December 16th.

8 MS. BLASTORAH: I think perhaps I can
9 help to clarify.

10 Q. I think Mr. Armstrong, and please
11 correct me if my notes are wrong, my notes indicated
12 that you said you received a package of information
13 dated December 16th?

14 A. Yes, that's correct.

15 Q. So that is the package of information
16 that's included in Appendix B; correct?

17 A. Right.

18 Q. And my notes - and I remember
19 specifically checking this - my notes don't indicate
20 any reference by Mr. Armstrong to when he actually
21 received that material, just that it was dated December
22 16th.

23 A. I believe I received the actual
24 information on the 23rd, but I had already been aware
25 of these meetings prior to that anyway.

1 MR. MARTEL: You were aware? That's the
2 only point I am trying to get clear from my notes, that
3 you were aware of it previously.

4 THE WITNESS: I was aware of the meeting,
5 yes.

6 MR. MARTEL: Okay, fine.

7 MS. BLASTORAH: That was the reference to
8 the phone call that I made earlier which was early in
9 December.

10 MR. MARTEL: Thank you.

11 MS. BLASTORAH: Q. Okay. I would just
12 like to go back, Mr. Armstrong, to a couple of things
13 we touched on this morning and clarify them before I
14 finish up the rest of my cross-examination.

15 Would you refer again to Exhibit 1547
16 which is the August map, the blue one that I provided
17 to you?

18 A. Appendix T.

19 Q. That's Appendix T, yes. Part of it
20 is Appendix T and the complete map is 1457.

21 Now, when we looked at the complete map
22 of Appendix R this morning, I pointed out to you the
23 fact that there was a notation on the bottom of that
24 map which indicated basically it was subject to change.
25 Do you recall that?

1 A. Yes.

2 Q. I'm sorry, I think I spoke --

3 A. Yes.

4 Q. Fine. Now, if you would look in the
5 lower right-hand corner, and I know this is a rather
6 difficult map to read to some extent because it has
7 been reduced, I believe, but can you read that small
8 note on the right-hand side there?

9 A. "Subject to change without notice;
10 therefore, this publication should be
11 used for general information only."

12 Q. Right. Now, would you agree with me
13 that if there were a chance the information portrayed
14 on this map might be changed during the course of the
15 plan, for instance, if there were an amendment to the
16 allocation areas or an amendment to a road location or
17 something like that, do you agree that anybody who had
18 this map should be made aware that this information
19 might be changed?

20 A. I would think that they should be
21 made aware of it and they should be made aware of it in
22 a little larger type than is currently on a map this
23 size.

24 Q. Now, I probably should advise you
25 that I believe this map is not actually reproduced the

1 size that it would be.

2 Well, regardless, leaving aside the
3 question of the size of type, and I take your comment
4 that the type should be bigger for a notice like that.

5 A. Yes. Being a licensed pilot, I think
6 I can accurately say this. Normally in the legends on
7 maps, things that are of major interest to the person
8 viewing the map are located in one location, and if it
9 was myself that was designing such a map, if I might
10 say, I would put that information in larger type in
11 this area.

12 Q. Okay. So you are recommending to the
13 Board, then, that a notification like that should be up
14 with the rest of the legend and probably should be in
15 bigger type?

16 A. That's correct.

17 Q. Okay.

18 A. At least matching the size of the
19 type that is in the legend on this map.

20 Q. Okay, fair enough. Would you agree
21 with me, in any event, that kind of a notification
22 should be on a map where the information depicted on
23 the map might change during the currency of the map and
24 the planning period?

25 A. Sorry, could you repeat the question,

1 please?

2 Q. Okay. Perhaps I will break it down
3 and make it little easier. This map refers to a
4 specific period of the timber management plan, which is
5 1990 to 1995, and this shows the proposed area of
6 operations for that five-year period?

7 A. Yes.

8 Q. Okay. Would you agree with me that
9 if there was a chance the operations shown on this map
10 might change during that five-year period, there should
11 be some indication of that on the map?

12 A. Yes.

13 Q. Okay, fair enough. Now, just while
14 we are dealing with the maps, we also touched on this
15 map as compared to Appendix R and we talked about how
16 the allocation was shown on this map and it hadn't been
17 shown on the previous map and we had some discussions
18 about that.

19 You did attend the district office in
20 June, I think it was June 23rd--

21 A. That's correct.

22 Q. --to look at the information that was
23 there?

24 A. Friday afternoon.

25 Q. Right. And the information that was

1 there consisted in part of maps?

2 A. That's correct.

3 Q. And you said that you had looked at
4 some maps?

5 A. That's correct. There were maps that
6 indicated -- that were similar to Appendix No. R and T,
7 there were also maps indicating future plans for the
8 area.

9 I believe some of the maps went as far
10 down the road as 2035, if my memory is correct, but
11 these were tentative maps that they just had on the
12 display area. There were also numerous pictures and
13 indications of what was done in the forest management
14 planning process.

15 Q. Okay. And the maps that were
16 available, did you look at all the maps that were
17 there?

18 A. I can't say that I looked at all of
19 them in detail.

20 Q. The reason I ask you that is, it's my
21 information that the maps from the 1985 to 1990 timber
22 management plan; in other words, the plan prior to
23 this, were also on display?

24 A. That may or may not be correct, I
25 can't really say.

1 Q. Okay. You did indicate earlier that
2 you hadn't looked at those maps?

3 A. I don't believe that I did. I
4 certainly have no knowledge of it and I was not
5 involved in the 1980 to 1985 timber management planning
6 process for this area.

7 Q. Okay. Do you think it would be
8 helpful to people like yourself looking at proposed
9 operations for a new plan if there were maps of the
10 previous years or previous plans proposed activities on
11 display when you were looking at the new plans so that
12 you could compare the two?

13 A. Yes, because it would give you an
14 historical insight into what's been going on in the
15 area in the previous, at least five, years, perhaps run
16 back even further than five years.

17 Q. Fine. Now, I have indicated that
18 those maps were there and you haven't been able to
19 confirm that, but if you had looked at those maps you
20 would have seen --

21 MR. LINDGREN: Is there any evidence that
22 the maps were there, Madam Chair?

23 MS. BLASTORAH: I'm not saying they were.
24 I have indicated that it is my information they were.
25 The witness hasn't been able to confirm that, so I am

1 just asking hypothetically, Mr. Lindgren.

2 Q. So perhaps for your sake I will just
3 state that. Hypothetically, if the maps were there and
4 you had been aware of it, would you agree that it would
5 have assisted you in looking at the May map to know
6 that there had been allocations in the area of Mackie
7 Bare which were not showing on the May map?

8 Would that have been a situation which
9 might have led you to ask somebody a question about
10 that?

11 A. Yes, it would. If I might say so,
12 the planning process, when you are going to one of
13 these information centres, there is a lot of
14 information that you are trying to glean from all the
15 different displays, maps and whatever.

16 It is hard in a very short amount of time
17 to absorb all the information that's there, whereas if
18 you had a chance to have at least a copy of the prior
19 forest management plan available to you before you went
20 there, it might lead to further questioning of what's
21 going on in the area.

22 Q. Now, when you say the forest
23 management plan, the prior forest management plan?

24 A. Yes, the 1980-1985 forest management
25 plan. That would give you a better idea of some more

1 questions and historical trends as to what would be
2 going on in the area.

3 Q. You said the 1980 to '85.

4 A. Yes.

5 Q. Do I take it you meant the '85 to '90
6 plan?

7 A. No, no. I am talking about, it would
8 have helped if you would have had a copy of the '80 to
9 '85 plan when they originally sent out the maps.

10 Q. That would have been two plans ago.
11 I just want to make sure we are talking about the same
12 thing.

13 A. Sorry, the 1980 to '85 and '85 to
14 '90.

15 Q. So you are saying the two previous
16 plans?

17 A. Yes, two previous plans, for that
18 matter. For example, myself, I have been with the Lake
19 Weslemkoon Conservation Association from August 1985 to
20 August 1987, so I came in when the previous 1980 to '85
21 plan had just expired and they were working under the
22 plan for the '85 to '90 plan--

23 Q. Yes.

24 A. --a ten-year sort of over-hang from
25 the '80 to '85 to '85 to '90 plan, and I would like to

1 get a whole historical perspective.

2 You are sending so many of these
3 documents to individual -- you know, the previous ten
4 years, if you could just add them on. When they go
5 into the forest management process, a lot of the things
6 that have been sent out, a lot of them relate to 2010
7 on the documents that have been filed and the various
8 places. I think you would agree with that.

9 Q. That there is a proposal to the year
10 2010?

11 A. That's correct. But going back a
12 period of ten years prior to the 1990 to '95 plan would
13 give a lot larger historical perspective in the plan
14 currently being looked at.

15 Q. Now, Mr. Armstrong, I would like to
16 explore that a little bit. You did make a comment - I
17 frankly can't recall whether it was in direct or
18 cross-examination, but you did comment that you felt
19 that the process was, if I understood you, a little
20 overwhelming. There was so much information and so
21 much paper you found it difficult to absorb that. You
22 just said essentially the same thing now?

23 A. For the people that are sitting here
24 today, I think we can look at the amount of paper we
25 have sitting on our desks. It speaks for itself. In

1 order to read and memorize every piece of paper you
2 have here, it will take a considerable amount of
3 intelligence.

4 MADAM CHAIR: Excuse, Ms. Blastorah. Mr.
5 Armstrong, when you went to the open house--

6 THE WITNESS: The one in June of 1990?

7 MADAM CHAIR: That's the first open house
8 you actually went to?

9 THE WITNESS: That's correct.

10 MADAM CHAIR: Were you comfortable
11 walking up to the person who was conducting the open
12 house? I don't know if it was the district --

13 THE WITNESS: It was Mr. Spence.

14 MADAM CHAIR: Were you comfortable
15 walking up to him and asking some questions of him; for
16 example, there is lots of paper here, but these are the
17 answers I want.

18 THE WITNESS: Very comfortable. I don't
19 mind asking anybody questions. Some other people might
20 find it that way, personally it doesn't bother me in
21 the least to go and ask questions.

22 The thing is that when you only have a
23 certain amount of the time to ask questions and you
24 gather information, as well ask questions at the same
25 time, it becomes difficult without spending an entire

1 day at one of these meetings.

2 MADAM CHAIR: Do you think you can
3 actually obtain the information you want out of the
4 open house without speaking to someone from the
5 Ministry?

6 THE WITNESS: You are certainly going to
7 get the view that the Ministry would like to put across
8 as far as their timber management program. It
9 certainly doesn't give the view of groups that might be
10 opposed to certain areas of their timber management
11 process, though, and the use of forest.

12 MADAM CHAIR: But with respect to
13 identifying specific areas, if you had a very real
14 concern about what was going on around this particular
15 lake--

16 THE WITNESS: Yes.

17 MADAM CHAIR: --the fastest way to get
18 that information would simply to say: Show me where
19 the harvest areas are this year.

20 THE WITNESS: Yes.

21 MADAM CHAIR: And show me where they have
22 been in the last ten years?

23 THE WITNESS: Yes, that would be very
24 helpful at least, you know, if you had any further
25 questions to give to the people at that particular

1 time.

2 MR. MARTEL: This is, I think, a rather
3 small problem in the overall context of looking at
4 plans. This is one small area, and you are overwhelmed
5 by the paper trail and the paper war that goes on.

6 What about if you were looking at a
7 complete forest management agreement between a
8 corporation? Have you ever seen any of them?

9 As my friend Eddy Sergeant used to say,
10 the whole ball of wax. I am just trying to get
11 something in perspective. Can the public understand
12 with the volume that's presented? Can they really
13 get -- the general public walking in off the street,
14 can they get any kind of perspective on this?

15 THE WITNESS: To the best of my
16 knowledge, I have not seen a complete one, but I am led
17 to believe that the management plan for 1985 to '90, if
18 you look at the whole thing, the whole ball of wax,
19 comprises approximately 50 volumes.

20 I may be wrong in that, but that's what I
21 am led to believe. I may be wrong. I'm just told that
22 and I mention that off the cuff, but the actual amount
23 of paper is considerable.

24 MS. BLASTORAH: Q. Mr. Armstrong, given
25 your concern about the amount of paper you are trying

1 to look at when you go into the district office and
2 your other concern that there should be some kind of
3 historical context available, do you think it would be
4 helpful if the immediately previous plan were there, so
5 you can compare what's being proposed now and what's
6 just happened and other information be available on
7 request?

8 A. Yes.

9 Q. That would be helpful?

10 A. Yes.

11 Q. Thank you.

12 MR. MARTEL: Can I back up then because
13 you are doubling the paper war then and if you have
14 difficulty with the one, how do you -- I think the
15 thing that worries me is, how do people grapple who
16 aren't foresters or who aren't professionals in forest?

17 The thing that worries me about the whole
18 thing is, how do people, lay people come in and give
19 their time and be part of a planning team or part of an
20 advisory committee and be able to look at it in its
21 totality?

22 As I have sat here now for a couple of
23 years listening to it all and I just wonder if people,
24 the lay public are going to be able to get involved and
25 understand and get their point across, or are they just

1 going to get discouraged and say: I can't do it, so I
2 am not going to try?

3 THE WITNESS: The question that comes to
4 mind, if I might answer that question, is - and I had
5 written down this -- these are personal notes. The
6 question I had written is: How can a group of
7 part-time amateurs have the same attention to detail as
8 the full-time professional foresters who are dealing
9 with this plan and with the many uses of the forest in
10 the Province of Ontario, and particularly in
11 southcentral Ontario, and I am not just speaking for
12 this one area, when you have half the population of
13 Canada living within about a three-hour or thereabouts
14 automobile drive to the area?

15 There is a large competing use. You can
16 create volumes and testimony. I think we have all
17 agreed that we're looking at this one small area and it
18 is a tempest in a teapot, but on the other hand, we
19 have got -- and it seems to be the view of a lot of
20 people that the Ministry of Natural Resources is more
21 helpful to the full-time professionals, and I'd include
22 the forest products industry as one of them, and yet on
23 the other hand, when you are trying to create a
24 conservation area for many other uses, it is very
25 difficult to put across your point.

1 I think it has also come along. I
2 believe - and I will pop out a figure here - I think we
3 are 22nd in the world in creating new public parklands
4 and we are trying to save what we've got. You know,
5 even if it's not in a park, it's still in a public
6 Crown area.

7 MS. BLASTORAH: Q. Mr. Armstrong, I
8 would just like to very quickly go over a couple of
9 thing you just said.

10 You expressed, I think, quite strongly an
11 opinion that this is a paper war for you that you find
12 a little overwhelming. If someone were to suggest that
13 more paper, more tables, that sort of thing, should be
14 added to the documentation that is currently available,
15 would you find that would just aggravate the problem?

16 A. I think that more paper -- can I just
17 back up here for a second.

18 Q. Certainly.

19 A. I'm not unused to a large amount of
20 paper. I work for an insurance company, I see a lot of
21 paper, as you do so and I think everybody else does
22 here, but as a part-time person, the amount of paper
23 does become somewhat overwhelming and particularly when
24 it's going to a number of different individuals, and
25 yet we don't have one full-time paid individual on an

1 Association such as I am representing here, whereas
2 there are people that are working for the Ministry of
3 Natural Resources and for the various groups who do
4 this full time.

5 The idea of more paper doesn't
6 particularly bother me, but let's say that we had
7 somebody else in the same position, okay, that was not
8 used to dealing with a lot of paper. I know there are
9 people that are on our Board of Directors, for example,
10 or electricians, there are people who are like
11 tradespeople, they aren't used to dealing with realms
12 of paper. I don't know how they would ever deal with
13 the amount that are put across here. They are skilled
14 in a lot of areas that I don't even pretend to be
15 skilled in, but they certainly probaby aren't as
16 skilled as some of the other people in this room in
17 pushing paper.

18 So in the long run there has to be a
19 happy medium as to the amount of paper, but it has to
20 be spelled out in clear and concise terms for these
21 people so that they aren't missing dates that they have
22 to respond by, so they are getting their point across
23 without them spending all their free time doing it.

24 Q. And when you say missing dates that
25 they have to respond by, we are not talking about the

1 sort of situation that we had here because there was no
2 issue of that here? I mean, you were never told that
3 you were too late?

4 A. No.

5 Q. Now, for those kinds of people, do
6 you think maps are of some assistance?

7 A. I think it's like anything else, a
8 picture it worth a thousand words.

9 Q. Fine. Do you find that would be
10 helpful, for instance, than tables of information?

11 A. Yes.

12 Q. Okay. Now, one of the thing that you
13 mentioned in your direct evidence was in relation to the
14 first notice, which is part of Appendix B, this notice
15 which is page 1 of Appendix B, and I think what you
16 indicated in direct was that you thought there should
17 be some identification of the proposal that was being
18 mentioned in the notice on this map. So I understood
19 you correctly?

20 A. Yes.

21 Q. And that's the notice that you got in
22 November, your Association got in late November--

23 A. Yes.

24 Q. --1987. Would you agree with me that
25 in the rest of Appendix B, which is the information

1 package dated December 16th, there is more detailed
2 information about the proposal and there is a map which
3 is page 4 of that package which shows the proposed road
4 development and a proposed access point?

5 A. Yes.

6 Q. Okay. So that map was available to
7 you when you received this package?

8 A. Yes.

9 Q. Okay. Now, when you received this
10 original notice, you realize this was the notice that
11 was published in the newspaper? This is page one of
12 Appendix B?

13 A. Yes, these were published in the
14 local newspapers in the area.

15 Q. That's right. Is it your position
16 that notices of this type, which are published in a
17 newspaper, should contain the details of all of the
18 operations that relate to the proposal being put
19 forward in that notice?

20 A. No, not necessarily because there are
21 individuals who will not want to require that -- who
22 don't require that information.

23 Q. Would you agree with me that it might
24 make a map a little confusing where you are talking
25 about a timber management plan, this is an amendment

1 process, but if you were talking about a timber
2 management plan that had allocations and road
3 construction and water crossings, and tending
4 operations and a whole -- you know, planting
5 operations, a lot of different activities, do you agree
6 it might be a little visually confusing if all of those
7 things were shown on this map?

8 A. If you had it all on one map, it
9 certainly would be confusing.

10 Q. Okay. Would it be helpful --

11 A. I think you would end up having to
12 have, for all the different operations that a forest
13 manager plan proposes to cover, you'll probably have to
14 have ten maps to make it reasonable for all
15 individuals.

16 Q. So would you agree that it would be
17 more helpful in that circumstance to have perhaps a
18 notice or some kind of a sentence on this notice
19 indicating that more detailed maps are available from
20 the district?

21 A. Yes.

22 Q. And then people could get what they
23 wanted?

24 A. Yes.

25 Q. Okay, thank you. I will go back to

1 where I left off before lunch, Mr. Armstrong, and I
2 will attempt to move through this quickly. I don't
3 think it will take very long.

4 The last exhibit that I marked this
5 morning that he hadn't yet referred to was Exhibit
6 1462. It is a map that looks like this. (indicating)

7 A. This map? (indicating)

8 Q. That's it. Now, do you agree with me
9 that this map shows -- the legend indicates this map
10 shows the centre line for the proposed Ashby-Trout Lake
11 Road, as well as the corridor within which that road
12 will be built?

13 A. Yes, I do.

14 Q. And can you confirm that this is the
15 corridor that was approved in the final plan?

16 A. That is correct.

17 Q. Now, I would like to just quickly go
18 over the information contained in the letter from Mr.
19 Betts, dated October 16th of this year, which is
20 appendix -- I beg your pardon, Exhibit 1447.

21 A. That's correct.

22 Q. I think it might be helpful if I move
23 to the map for this and perhaps the Board and anyone
24 could let me know if they can't see -- or can't hear
25 me, rather. I will try and speak up.

1 Now, this alternative 1, as shown on
2 Exhibit 1437, is the road centre line which is shown on
3 this map which is Exhibit 1462; is that correct?

4 A. That's correct.

5 Q. Okay. And this Exhibit 1437 does not
6 show the road corridor?

7 A. No.

8 Q. Now, would you agree with me that the
9 letter from Mr. Betts indicates that the crossing of
10 Ashby Creek is going to be moved slightly northeast of
11 where it is shown on alternative one--

12 A. Yes.

13 Q. --on Exhibit 1437 and you marked that
14 this morning with a small blue pen dot here--

15 A. That's correct.

16 Q. --just northeast on the map of that
17 alternative one road?

18 A. It is known as the flat rock area.

19 Q. Thank you. I had heard of it as the
20 minnow traps, but that's the same area?

21 A. The flat rock area is immediately
22 adjacent to the traps.

23 Q. Are you able to confirm for me, by
24 looking at Exhibit 1462, that that change to the road
25 location and change in the water crossing will still

1 put the road within this approved corridor?

2 A. Yes, it will.

3 Q. Thank you. Would you also agree with
4 me, Mr. Armstrong, that the Lake Weslemkoon
5 Conservation Association has been able to continue
6 discussions with the Ministry of Natural Resources and,
7 in fact, with Mr. Hagborg right up to the present time
8 on this? In fact, we had a recent letter from Mr.
9 Betts dated just last week.

10 A. That's correct.

11 MS. BLASTORAH: Those are my questions on
12 the chronology, Mrs. Koven. I would just like to go
13 back very briefly to a couple of factual matters that
14 came up during the evidence and in-chief and maybe, Mr.
15 Armstrong, you can help me clear these up quite
16 quickly.

17 Q. During your direct evidence, Mr.
18 Lindgren asked you to give some information about a
19 snowmobile trail and you spent some time talking about
20 that and that was a snowmobile trail constructed in the
21 vicinity of the Otter Lake and in close proximity to
22 the entrance of Ashby Creek to Otter Lake?

23 A. That's correct. More specifically, I
24 think we are referring to the trail that was cut down
25 from the centre line of the proposed road, alternative

1 1, down to the edge of the lake called marsh.

2 Q. Okay. I just wanted to clarify, and
3 I think you just helped me do that, that trail is
4 perpendicular to the proposed road location?

5 A. Approximately, yes.

6 Q. So it doesn't follow the proposed
7 road location at all; there are not in the same place?

8 A. No.

9 Q. So if anyone were to understand or
10 were to take from your comments in direct an impression
11 that the construction of that trail or the brushing out
12 of that trail was somehow an attempt to push through
13 the centre line of that road, they would have been
14 mistaken because they are not in the same place?

15 A. Certainly, because where the trail
16 ends up, it ends up a marshy area and what would be
17 thought -- nobody would be running a road down this
18 particular trail.

19 What was more of concern to us at the
20 time when this trail was cut was that it -- having
21 taken off that this would be an access point at that
22 time when we made our original -- when we had some of
23 our early talks with the Ministry of Natural Resources
24 and this snowmobile trail was cut afterwards, and also
25 when I picked up the permit and the sign after it had

1 been cut in the spring of 1989, this trail was
2 considerably larger than what the permit had stated
3 right on it.

4 Q. Okay. Regardless of the actual size
5 of the trail, you would agree with me that presently,
6 because there is no road there, there really -- I think
7 you have just indicated this, there is no way to get a
8 vechicle to that trail at the present time?

9 A. No, there's not.

10 Q. Okay.

11 A. But if a road was to be put across
12 through the area, that trail could be accessed very
13 easily.

14 Q. And the road location as proposed in
15 Mr. Betts' letter with the crossing at the minnow
16 traps, would that link up with that snowmobile trail
17 that you were speaking of?

18 A. Basically it would. It is quite easy
19 terrain where that access trail -- it runs down towards
20 the lake and to where the proposed -- the new proposed
21 crossing area, as indicated by his letter of October
22 the 16th, it would very easily be linked up.

23 It is not heavy bush through the area and
24 it's also not hard terrain, cover.

25 Q. Okay. I would just like you to

1 confirm that with Mr. Betts because I may have been
2 misinformed, but it was my understanding that it would
3 be a little difficult to make that link.

4 A. It would be more difficult because
5 what you're doing is you're moving the centre line of
6 the road to the northeast, which is a little further
7 away from where the major cut goes through the bush,
8 but the actual forest -- I think if you walk through
9 the area it becomes easy to see that as you come
10 towards the level of where the minnow traps/flat rock
11 area is, the forest is not as thick as it was down
12 closer to the lake called marsh.

13 Q. Is that a fairly bouldery area? You
14 call it the flat rock area, I'm just --

15 A. No. It is a piece of flat granite.
16 It's almost like a table.

17 Q. I see. I obviously haven't been
18 there, so I am just trying to get a sense of the
19 terrain.

20 A. If I might make a comment. I have
21 seen worse parking lots in Toronto.

22 Q. Now, item 3 in this proposal by Mr.
23 Betts reads:

24 "All current or potential access points
25 will be closed by the location

1 of substantial boulders which would
2 prevent ATV access or unauthorized boat
3 launch areas from being developed."

4 Am I correct that that is intended to
5 address specifically your concern that you've just
6 stated, that someone might access that snowmobile trail
7 off the road once it's built?

8 A. No, we aren't -- Well, you mean with
9 a vehicle? Yes, it is.

10 Q. Okay. So the intent there, and
11 correct me if I am wrong, my understanding is the
12 intent is to block off that path essentially by the
13 placement of large boulders?

14 A. Yes, it's to block off for use
15 basically on regular street type vehicles, cars,
16 trucks, boats on trailers.

17 Q. That being the objective, would you
18 agree with me that whether or not the use of boulders
19 is how it is ultimately done, some steps to block that
20 access by what you call street vehicles is the
21 objective?

22 A. Yes.

23 Q. Okay, thank you. Now, Mr. Martel
24 raised a number of other concerns in relation to your
25 evidence about the ski trail, and I don't intend to

1 take anymore of the Board's time going into that, Mr.
2 Martel, unless there was something else you still had
3 some outstanding concerns about.

4 MR. MARTEL: I have a better handle on
5 it.

6 MS. BLASTORAH: Thank you. I won't take
7 any more time on that then.

8 One other matter then that you addressed
9 in your evidence-in-chief. You indicated in response
10 to a question from Mr. Lindgren that you felt the map
11 which is - and I will have to ask you to flip the other
12 map down. Oh, no, I'm sorry, that is the right map -
13 Exhibit 1437, that you felt that map was inaccurate
14 because there was not a green dot in the area of Ashby
15 Creek; is that correct?

16 A. Yes. We were talking about the heron
17 rookery area?

18 Q. Yes.

19 A. Yes, we are talking about a green dot
20 in this area which we have actually viewed. There have
21 been members of the Association that have viewed heron
22 nest down in this area. The Ashby Creek actually runs
23 through here, so it goes in this direction rather
24 than -- (indicating)

25 Q. So you are indicating a point roughly

1 directly south of the entrance of Ashy Creek, okay.

2 A. Runs directly south, yes.

3 Q. Okay. Now, those are nests, actual
4 nests you are talking about, not just herons or
5 marshland, but actual nests?

6 A. There are herons in there. When I
7 was in there on the Saturday of the long weekend there
8 were herons in the marsh. I can't say they were in the
9 nest. At this time of the year they aren't normally in
10 their nests, but they were in that marsh. At that
11 particular time, I myself viewed two of them.

12 Q. I am not trying to belabour this, I
13 just wanted to clarify something. The legend on that
14 map, I think you will agree with me, indicates that
15 green dots are placed on areas representing heronries?

16 A. That's correct.

17 Q. What do you understand by a heronry?

18 A. Heronry is a place where herons nest
19 and breed and where they access their food.

20 Q. Okay. If I were to tell you that
21 heronry, as it is used on that map, is intended only to
22 represent areas where there are actual existing, in-use
23 heron nests, if I were to tell you that, would you
24 still say that there should be a green dot in the area
25 you have indicated?

1 A. Yes, because somebody from our Board
2 of Directors has viewed a heron's nest in there. I
3 have not myself, but I have no reason to believe that
4 there is not a heron nest in there.

5 Q. Do you know whether that individual
6 informed the Ministry of Natural Resources of that
7 heron nest location?

8 A. I have no knowledge of that.

9 Q. Okay. And do you know -- and you
10 have indicated this is something that was told to you
11 by somebody else, do you know how long that nest may
12 have been there? Is it a new nest?

13 A. I have no idea.

14 Q. Fine, thank you. One other matter in
15 relation to nests, just to finish up.

16 Would you refer to Exhibit 1445. Again,
17 a document filed by your counsel. There are a number
18 of table-like documents which are headed Environmental
19 Analysis Checklist at the back of that exhibit.

20 A. That's correct.

21 Q. Would you turn to the fourth page of
22 that checklist, which is item 2.5?

23 A. 2.5, yes, I have that.

24 Q. Mr. Lindgren took you to that during
25 your direct evidence and I believe you said that in

1 relation to that comment you felt it was incorrect
2 because there are raptures in the area?

3 A. I have viewed raptors in the area.
4 Now, a raptor is a bird of prey, it is not a heron.

5 Q. No, I agree with you there. I just
6 wanted to clarify again, you indicated that you had
7 seen raptors in the area and I just wanted to clarify,
8 this note in the checklist indicates no raptor nests
9 found, minimal habitat loss anticipated.

10 Are you aware of raptor nests in that
11 area?

12 A. No, I'm not.

13 Q. Thank you. And that's consistent
14 with what you advised us in answer to our interrogatory
15 No. 4(a)?

16 A. That's correct.

17 Q. Thank you. Now, one last matter.
18 You have spent some time talking and I think one of the
19 reasons you came here was to talk to the Board about
20 the opportunities that you felt you had had and the
21 adequacy of them to put information to the Ministry of
22 Natural Resources and to get information back.

23 In doing that, you talked about what you
24 felt were appropriate mechanisms to deal with your
25 situation, and I think some of things you suggested

1 were weekend open houses and we saw a few of those
2 during the checklist we went through, various
3 opportunities to get together on Saturday which was
4 convenient for you.

5 You would agree that that was one of your
6 concerns?

7 A. That's correct.

8 Q. Also, I think you indicated that as
9 cottagers you weren't in the area in the wintertime, so
10 it was more difficult for you to get to open houses and
11 that kind of thing in the wintertime?

12 A. That's correct. If you look -- a lot
13 of the dates that are mentioned regarding open houses,
14 they seem to be in November, December, March and April
15 and a lot of things -- and it just isn't in some of
16 these.

17 It goes back to other open houses that
18 have come along, different Ministry involved projects,
19 including the spraying of the gypsy moth where I drove
20 to Kawene, Ontario in February of a year and when I was
21 there I was there -- it was the middle of a snowstorm
22 and I think there were -- as I remember it, there had
23 only been one four people there when I arrived
24 approximately three o'clock in the afternoon in Kawene,
25 Ontario when the principal people from the Lake Western

1 (inaudible) that would be involved with a spraying or
2 control of a gypsy moth population on that lake would
3 have to drive approximately 165 to 170 miles in the
4 middle of February to view something and they'd
5 probably be a lot more easily accessed some where else.

6 Q. Okay.

7 A. If I can just say one thing.

8 Q. Certainly.

9 A. It probably would have been a lot
10 easier for all involved, if you consider the numbers,
11 if that they would have had it right at the Tweed
12 office rather than having to drive to Kawene. It made
13 it even further.

14 Q. I am sure the Tweed District staff
15 would have appreciated that comment at the time.

16 A. I'm sure they would to.

17 Q. You did say that, going through this
18 chronology of your experience, a lot of the open houses
19 and so on were in winter.

20 I would just like to clarify. My notes
21 indicate that, yes, the original open house for the
22 amendment proposal was in January of '88, but there
23 were two information centres in relation to the new
24 timber management plan and they were held in May 1989?

25 A. Correct.

1 Q. You have agreed with that.

2 A. But I've also indicated that they
3 were held on a Friday on both times and that these
4 particular open house dates were before anybody in City
5 of Toronto certainly and probably from City of Ottawa
6 could get there.

7 Q. You also indicated, I think you
8 agreed in your cross-examination, that that information
9 was available through the summer, however?

10 A. That's correct.

11 Q. So anybody could have gone through,
12 basically, weekend -- well, perhaps not weekend, but
13 certainly at any time during the summer?

14 A. On a week day.

15 Q. On a week day. Do you know whether
16 anybody ever contacted the district and made an inquiry
17 about coming in on the weekend?

18 A. We've asked them, I believe, pretty
19 well at every annual meeting, why don't they bring
20 their display to the annual association meeting.

21 There is always a very good audience
22 there. That would probably be -- they would probably
23 get more people that would come to that particular time
24 than they would get for a large amount of the other
25 open house days.

1 Q. And, in fact, Mr. Hagborg, that was
2 the meeting he attended; correct?

3 A. Yes.

4 Q. Okay. Now, I won't belabor what you
5 actual experienced, there were some at different
6 points, but I would just like to ask you whether you
7 are aware that the Ministry of Natural Resources has
8 suggested to the Board that there should be an advisory
9 committee of interest groups, including groups of your
10 type, cottagers associatoinis or conservation
11 associations, that sort of thing, various types of
12 interest groups, to advise the Ministry in relation to
13 timber management planning on a number of items.

14 And one of the items that the Ministry of
15 Natural Resources has suggested would be appropriate
16 for that group to give advice on would be how to tailor
17 information centres and the presentation of information
18 and communications generally with the public, how to
19 tailor that to the specific circumstances relating to
20 that plan.

21 Do you think that would be helpful to
22 address the kinds of concerns you have raised?

23 A. Yes, it would be. If I might just
24 add. If I was a marketing individual and I was trying
25 to go after my market group, I would endeavor do to it

1 different times than they have done it and probably in
2 different ways, so an advisory group would be very
3 helpful.

4 Q. And that would allow the members of
5 that have advisory group to tailor the situation to the
6 circumstances; for instance, where there is a cottagers
7 association, would you agree that the convenient times
8 for the members of that group might be different than
9 in a circumstance where you are dealing with not a
10 cottaging lake, but perhaps a remote tourism operation
11 where those people are very busy in the summer?

12 A. That's correct.

13 Q. You also indicated earlier when we
14 were talking about the volume of material, when you
15 went in to see the display in the district office, you
16 would agree that there was quite a bit of material
17 there?

18 A. Yes. Photographs, maps, charts, et
19 cetera.

20 Q. A fair bit of stuff to cart around?

21 A. Yes.

22 Q. Would you agree that this committee
23 that we have been talking about, this advisory group,
24 might also recommend that some material would be
25 appropriate for some circumstances, but not necessarily

1 everything?

2 - Would that be something that might be
3 appropriate in your circumstances?

4 A. Yes. From what I saw, there were a
5 lot of large poster style displays in the offices and
6 I realize that they said, you know, it would be easier
7 to come to the Ministry offices so that people could
8 see the entire display, but I think that the meat and
9 potatoes, for lack of a better term, of the display
10 would much more easily be taken to the people rather
11 than the people going to the display.

12 Q. When you say the "meat and potatoes",
13 does that relate back to your earlier comment about
14 what the actual on-the-ground operations are going to
15 be?

16 A. Yes.

17 Q. Now, you may not be aware that the
18 Ministry has also made a proposal in relation to some
19 maps which should be available, and these would be
20 available on request from members of the public.

21 One of those types of maps would show
22 values or summary of values, the types of values in the
23 district, and another type of map would show the
24 proximity of actual proposed activities in relation to
25 those values. Is that something that would helpful to

1 you?

2 A. Certainly.

3 Q. Am I correct that you indicated that
4 the district had suggested it would be easier for your
5 group members to come into the office because of the
6 volume of stuff?

7 A. That's correct.

8 Q. Am I correct that Mrs. Nash agreed
9 that that was the case and did, in fact, go into the
10 district office?

11 A. I can't honestly answer that
12 question.

13 Q. Okay.

14 MS. BLASTORAH: I think those are my
15 questions, Mrs. Koven.

16 MADAM CHAIR: Thank you, Ms. Blastorah.

17 MS. BLASTORAH: Thank you, Mr. Armstrong.

18 MADAM CHAIR: Mr. Lindgren, would you
19 like to take the afternoon break now before your
20 re-examination, or are you ready to go?

21 MR. LINDGREN: I am prepared to commence
22 and finish in a matter of minutes and then we can take
23 the break and set up for the next witness.

24 MADAM CHAIR: All right.

25 MR. LINDGREN: The next witness is ready

1 and willing to go.

2 MADAM CHAIR: Very good. Thank you, Mr.
3 Lindgren.

4 RE-DIRECT EXAMINATION BY MR. LINDGREN:

5 Q. Mr. Armstrong, I have a few questions
6 for you arising out of Mr. Cosman's cross-examination
7 this morning.

8 First of all, you might recall that he
9 asked you whether or not you need to be a cottager to
10 be a member of the Association and you said you have to
11 be a cottager or a year round resident. Can you advise
12 me whether the Association has an associate membership
13 category called Friends of the Lake for people who are
14 not cottagers?

15 A. Yes, but that, to the best of my
16 knowledge, is a non-voting membership at the present
17 time.

18 Q. But it's still a membership of the
19 Association?

20 A. Yes.

21 Q. And Mr. Cosman also asked you about
22 the other public groups who would be interested in
23 using and enjoying the Otter Lake area.

24 Is it the Association's position that all
25 other members of the public should not be permitted to

1 use or enjoy Otter Lake?

2 A. No.

3 Q. Has that ever been the position of
4 the Association?

5 A. No.

6 Q. You also mentioned this morning in
7 response to Mr. Cosman's question that Otter Lake is
8 accessible by a navigable waterway and, in fact, you
9 indicated that it is accessible by power boat.

10 If a member of the public wanted to use
11 or enjoy Otter Lake, could he or she launch a boat at
12 one of the access points on Lake Weslemkoon and then go
13 to Otter Lake?

14 A. Yes. And, as a matter of fact, what
15 has been suggested to me is that the access points at
16 the two south end locations -- okay, there are two
17 marinas there. The marina at the north end and a
18 public launch ramp in the north, we think are adequate
19 for the task of the number of boats that come in and
20 out of the area or are likely to use the area.

21 Also, it tends to help these people as
22 far as their businesses are concerned, okay, for the
23 three marinas that are involved. If they don't care to
24 use the three marinas, there is a public launch ramp at
25 the north end of the lake.

1 Q. Okay, thank you. Next, I have a few
2 questions arising out of the Ministry of Natural
3 Resources' cross-examination.

4 Ms. Blastorah asked you about the issue
5 of how the 400 metre was to be measured. In your
6 evidence, you discussed how you understand the Ministry
7 would measure it and you have indicated how you thought
8 the Association would like to have it measured, and I
9 think there is still some confusion on that.

10 I think to straighten out this matter,
11 could you please sketch on the map with one of those
12 markers, firstly, the MNR proposed method of measuring
13 400 metres and the Association's proposed measurement
14 and can you indicate what that would mean in terms of
15 the road location.

16 Mr. Armstrong, perhaps you could use the
17 sketch map.

18 A. This one here?

19 Q. The easle. Just draw on the easle.

20 A. Okay. Basically what there is --
21 okay, if I can refer right to the map here, there is an
22 area -- the Ashby Creek comes in such as this and there
23 is a bay that runs along, this being Otter Lake here.

24 This being the area that we are proposing
25 for the road right-of-way - I hope I am getting this

1 reasonably to scale - and what we have is an area where
2 a boat can actually be brought right into the shore
3 here, okay, whereas the marshy area extends out on a
4 scale, out to somewhere around here.

5 And the distance from here, okay, where
6 you can bring a boat into as far as the lake is
7 concerned and to what was the proposed -- the original
8 point of alternative No. 1, okay. From here to here is
9 approximately 105 metres, okay, and from here, okay, to
10 the proposed road centre line, if you were to try and
11 kind of come in this direction, that would be 400
12 metres. (indicating)

13 So you have an area that can be used by a
14 boat to cross the marshy area all the way through here.
15 As a matter of fact, the marshy area in Otter Lake
16 extends farther up the shoreline, almost all the way up
17 to the High Dam Lake area all the way along the shore.

18 MADAM CHAIR: And where was the high
19 water mark?

20 THE WITNESS: The high water mark -- to
21 be honest with you, there isn't a whole lot of
22 variation between the normal high and the normal low
23 water mark in this lake. It's not a Hydro controlled
24 lake. So the area from low water to high water would
25 probably only be in that variance there where you can

1 actually run a boat to.

2 MR. LINDGREN: Q. Mr. Armstrong, where
3 did the Association believe the 400 metres would be
4 paced off from?

5 A. We believe that the 400 metres would
6 be from where you can land a boat.

7 Q. And where would that bring the road
8 location?

9 A. That would bring the road location
10 back around here somewhere, which is considerably
11 behind. It would actually be behind the area where it
12 opens up into the minnow traps on the far side of that
13 swampy area.

14 But for the process of what we have
15 discussed since, we have discovered that what we
16 believed to be a suitable access route across here, to
17 be honest with you, would probably end up doing more
18 environmental damage through cutting, blasting and
19 whatever.

20 Let's be reasonable about this, everybody
21 has to use the area. I think that the area where we
22 had gone from the centre to the right-of-way here, to
23 moving it over to what they call a flat rock area here,
24 is a much improved proposal to begin with, and
25 particularly with what is in the letter of October the

1 16th from Mr. Betts which was, again, in his
2 conversation with Mr. Hagborg.

3 I understand there was a lot of give and
4 take on both sides in this matter. It's a much
5 improved area because the right-of-way has been reduced
6 from the 66-foot right-of-way to I believe a 25-foot
7 right-of-way through the area which would make the road
8 not come up to a Ministry Class C road standards.

9 Q. In terms of the proposed realignment,
10 can you advise me whether or not that realignment was
11 been finalized? Has it been finalized?

12 A. As of last night at eleven p.m. there
13 had been no final contact between Mr. Betts and Mr.
14 Hagborg and Mr. Spence and Mr. Chamberlain.

15 I understand that Mr. Chamberlain is
16 currently on holidays and perhaps an answer will come
17 between now and then.

18 MR. MARTEL: Can I ask a question. How
19 long is the 25-foot right-of-way? That road is going
20 to extend for 25-foot wide for how long?

21 THE WITNESS: Well, that's an interesting
22 question. Mr. Betts and I actually discussed that last
23 night and if you read in his letter of October the
24 16th --

25 MR. LINDGREN: This is Exhibit 1447.

1 THE WITNESS: Pardon me, I am looking
2 through my pile of paper here. The right-of-way
3 cleared for the road will be reduced to 26 feet from
4 the crest of the hill to the east of the Ashby Creek
5 area which is here, okay, to the west side of High Dam
6 Lake which, if you refer back to this map, would be
7 from approximately here to here. (indicating)

8 MR. MARTEL: On either side of that, how
9 wide is the road? At either end, what will the road --

10 THE WITNESS: I believe it a 66-foot foot
11 road allowance.

12 MR. MARTEL: And you are reducing it to
13 25 feet.

14 THE WITNESS: Yes.

15 MR. MARTEL: Does no one have any concern
16 of what might happen as you funnel traffic through
17 there both ways?

18 THE WITNESS: I believe that the idea of
19 this road is that it's supposed to be an access road
20 for forestry purposes.

21 MR. MARTEL: Only?

22 THE WITNESS: That is our understanding
23 of it.

24 MR. MARTEL: Well, maybe we could get
25 confirmation of that, that that is only a forest road

1 as opposed to something that a lot of the public might
2 use.

3 My concern of course is that we are
4 funneling it. If other people are using it and it's 66
5 feet and you are reducing it to 25 feet from 66 feet,
6 if you have travelling going two ways and you funnel it
7 in this area, does that not become a hazard?

8 Having watched over the years many of
9 those bailey bridges being put in that fashion and
10 reducing things to a narrow point and then widening
11 out, I don't know if there is a concern for safety or
12 not considered. Maybe we can get some clarification.

13 MS. BLASTORAH: Mr. Martel, if you are
14 asking me, I can perhaps just clarify with the witness
15 based on what the witness just said.

16 First of all, the proposal that's set out
17 in this October 16th letter has not yet been accepted
18 by the Ministry of Natural Resources, so it is not
19 final that that will be the road width, is my
20 understanding.

21 MR. MARTEL: But if the right-of-way is
22 26 feet, does that include -- what does that, in fact,
23 include, 26 feet? Is that the actual road, what's the
24 roadbed going to be, 20 feet, or the size of the road?

25 I mean, how narrow is this road going to

1 be I guess when you are done if the right-of-way is
2 only 26 feet?

3 MS. BLASTORAH: Well, Mr. Martel, there
4 are a couple of exhibit and again, Mr. Lindgren, I am
5 not intending to give evidence, I would just like to
6 refer Mr. Martel to a couple of exhibits that have
7 already been marked.

8 MR. MARTEL: I am reading the letter of
9 October the 16th where it says:

10 "The right-of-way and cleared area for
11 the road will be reduced to 26 feet."

12 MS. BLASTORAH: And that's the proposal
13 that has been put forward.

14 MR. MARTEL: Right.

15 MS. BLASTORAH: If you will look at
16 Exhibit 1460, there is information contained there
17 about the Ministry's proposal on the road location, and
18 just one other document that I could refer you to is
19 Appendix B of Mr. Armstrong's source book which gives
20 some information on the benefits of the access road
21 proposal.

22 You were asking whether this is just
23 going to be a forest access road, and that Appendix B
24 does set out - and I think Mr. Armstrong went through
25 this - some of the other advantages that were thought

1 would be gained from this road. So that I think would
2 answer your question about whether it is going to be
3 strictly a forest access road. It is going to be a
4 public road, if that helps. It is not intended that
5 this will be a private road.

6 Now, I can't confirm for you beyond that
7 what the road width will actually be because, as I have
8 indicated and Mr. Armstrong has indicated, this
9 proposal is still on the table, nothing has been
10 decided at this point.

11 Thank you, Mr. Lindgren.

12 ---Discussion off the record

13 MADAM CHAIR: Mr. Lindgren.

14 MR. LINDGREN: Thank you.

15 Q. The proposed realignment through the
16 flat rock area, can you advise the Board as to whether
17 or not that proposed realignment originated with the
18 Ministry of Natural Resources or Mr. Betts?

19 A. In my discussion with Mr. Betts,
20 which I had last night, I understand that it was a
21 proposal that was put forward by Mr. Betts when they
22 went through and had a look at the area originally on
23 October 22nd of this year, and Mr. Hagborg has since
24 had his engineer go out and have a look at the area and
25 is actually a much preferred and easier way for the

1 engineers to build a bridge across it. So I think it's
2 a mutually agreed upon situation. It's beneficial to
3 both sides.

4 I think what should be brought about is,
5 this conversation that happened between Mr. Betts and
6 Mr. Hagborg and the other people on October the 2nd, at
7 no time was this hearing mentioned during the day when
8 they were out, and the alternatives that were discussed
9 during that day were simply alternatives to come up
10 with a better solution to a problem that is going on to
11 be three years old.

12 Q. Thank you. Now, this morning Ms.
13 Blastorah filed an Exhibit 1453 which was the report of
14 the regional ecologist.

15 I'm not sure you need to look at it, but
16 regardless of whether this area was important or
17 significant to the MNR regional ecologist, is the area
18 significant and important to the cottagers?

19 A. I believe so, yes.

20 Q. And why?

21 A. Because of the birds, the natural
22 area that is in this area at the present time which we
23 believe the building be of a major roadway through this
24 area is going to disturb.

25 MR. LINDGREN: Madam Chair, I have to

1 borrow Exhibit 1456 which is the May 1989 map which I
2 think has been placed on your desk.

3 MS. BLASTORAH: It's not the blue one,
4 Mrs. Koven, it is a black and white photocopy.

5 MR. LINDGREN: Thank you.

6 Q. Mr. Armstrong, could I ask you to
7 please mark with a pen the area that we are talking
8 about, the area near your mother's cottage?

9 A. The area where her cottage is. What
10 would you like on it?

11 Q. The area that's been the subject of
12 this dispute this morning, whether it is allocated or
13 not allocated?

14 A. This area right in here. There is a
15 question mark that's already indicated on there with
16 yellow pen in there and I've circled it with blue pen.

17 Q. Can you confirm for me that the lower
18 right-hand side of the document contains the similar
19 warning, as it were, that this map is subject to change
20 without notice?

21 A. Yes, the disclaimer, for lack of a
22 better word...

23 Q. Is it in the same small print as the
24 other map?

25 A. Yes, it is.

1 Q. Thank you.

2 MS. BLASTORAH: I'm sorry, I didn't have
3 the map in front of me, Mr. Lindgren. You were
4 referring him to the lower right-hand side?

5 MR. LINDGREN: The legend where the
6 compass bearing is.

7 MS. BLASTORAH: And that would be in
8 addition to the mark that was put to him this morning
9 then on the lower left-hand side?

10 MR. LINDGREN: Yes.

11 MS. BLASTORAH: Thank you.

12 MR. LINDGREN: Q. On the map that I just
13 showed you, was there any indication that there are
14 allocated areas next to or near your other's cottage?

15 A. No.

16 Q. Now, as a member of the public
17 looking at a map like that, what conclusion would you
18 draw about the likelihood of harvesting in and around
19 the cottage property?

20 A. I would assume there would be none.

21 Q. Did you rely upon that map?

22 A. Yes, I did.

23 Q. In your opinion, should maps that are
24 given to the public and referred to by the public,
25 should they be subject to change without notice to the

1 public?

2 A. No, I think what should happen in a
3 case like this is where the regional map is produced
4 for somebody who particularly has asked for a copy of
5 the map, if there are any revisions, it should be
6 encumbent upon the people that are producing the map to
7 get a copy of the new revised map to these people if
8 and when it is produced.

9 Q. I would like you to look at Exhibit
10 1458 which was filed by Ms. Blastorah this morning.
11 This was the record of verbal transaction. Do you have
12 that document?

13 A. Yes, I do.

14 Q. Can I ask you to flip to the
15 depletion map that's attached to this verbal record.
16 Have you seen this map before?

17 A. Yes, I have.

18 Q. Could I ask you to compare the
19 reserve on the map attached to Exhibit 1458 to the
20 reserve that's indicated on Exhibit 1463?

21 A. It would appear from a visual
22 description that this map here, okay, with the dark
23 area, the allocation, is larger. It actually extends
24 further this way and further this way.

25 MS. BLASTORAH: Sorry, Mr. Armstrong, you

1 are pointing at the red area?

2 THE WITNESS: Yes.

3 MS. BLASTORAH: And that's the reserve,
4 not the allocation.

5 THE WITNESS: Sorry. The reserve area is
6 down the shoreline.

7 MS. BLASTORAH: And that red area on the
8 map that you were pointing to is the reserve area.

9 THE WITNESS: Yes, all right.

10 MR. LINDGREN: Q. Can you draw any
11 conclusions between the reserve that's indicated --

12 MR. MARTEL: Could we go back because I
13 am now not sure precisely what we are doing because of
14 the back and forth and maybe we could start again.

15 MR. LINDGREN: Okay. I am looking at the
16 map that's attached to Exhibit 1458 and the reserve
17 that's indicated is this dark black line along the
18 shoreline.

19 MR. MARTEL: Right.

20 MR. LINDGREN: On Exhibit 1436, there is
21 an indication that the reserve here now extends to this
22 whole area. I am asking him to compare the two maps.

23 THE WITNESS: No, it does not -- the
24 reserve, okay, in this particular map, okay -- well, it
25 is unclear, the red actually blocks out part of the

1 map, so it's hard to decipher which is which, to be
2 honest with you, but the reserves area --

3 Q. Is it larger or smaller than the map
4 indicated on the --

5 A. It's smaller on here.

6 Q. The harvest reserve.

7 A. The harvest reserve area in this area
8 is actually larger.

9 Q. On Exhibit 1463?

10 A. Yes.

11 Q. Do you know --

12 MADAM CHAIR: Excuse me, did you say the
13 harvest area or the reserve area?

14 THE WITNESS: The harvest reserve area.

15 MADAM CHAIR: We have never had a term in
16 this hearing called harvest reserve area.

17 MR. LINDGREN: It's the MNR's term, it's
18 the MNR's map.

19 MS. BLASTORAH: It's the reserve area. I
20 think the legend reads harvest reserve, indicating that
21 it is a reserve in terms of the harvest to be around
22 there.

23 I should just indicate for the Board's
24 purposes that the reason the allocations were not put
25 on this map was because we produced it in part to offer

1 to Mr. Lindgren to use in direct and we realize that
2 there some disagreement as to what the allocationss
3 were.

4 Consequently, we didn't put the
5 allocations on the map, we put the reserve on the map
6 and the legend reads harvest reserve in order to
7 indicate what that is. It's a reserve put on in
8 conjunction with the harvest to be carried out in that
9 area.

10 MADAM CHAIR: So, Mr. Lindgren, if this
11 map was produced for your case, what's the point of
12 asking Mr. Armstrong --

13 MR. LINDGREN: It was produced by the
14 Ministry of Natural Resources. The point is that the
15 reserve that's indicated there is not the reserve
16 that's indicated here.

17 Q. My question to you is, were you ever
18 advised that there was a change in the harvesting plan?

19 MS. BLASTORAH: Mr. Lindgren, I think I
20 must point out that Mr. Armstrong indicated in his
21 cross-examination by me that the note on the verbal
22 transaction, which we are talking about, is consistent
23 with what's shown on that map.

24 MR. LINDGREN: And that's what I'm
25 exploring right now.

1 MS. BLASTORAH: Yes. So he indicated in
2 his cross-examination that this description is
3 consistent. What his mother was told is consistent
4 with what is on Exhibit 1436.

5 MR. LINDGREN: The point of my confusion,
6 Madam Chair, is that what is apparently indicated on
7 this map is not what was indicated in the depletion map
8 that was sent to Mr. Armstrong's mother and that's the
9 source of the confusion that I wanted to address.

10 MADAM CHAIR: Mr. Armstrong, are you
11 saying that the depletion map, Exhibit 1458 --

12 THE WITNESS: They do differ.

13 MADAM CHAIR: Let's just get this
14 straight. Exhibit 1458 shows a larger harvest area or
15 a reserve area?

16 THE WITNESS: It shows a larger reserve.

17 MADAM CHAIR: It shows a larger reserve
18 area than does the same area supposedly in Exhibit
19 1463.

20 MR. LINDGREN: I'm sorry, Madam Chair.

21 THE WITNESS: I'm sorry. I'm getting
22 boggled by all the terminology here. If I can just
23 explain in layman's terms, why don't we do it this way.

24 MADAM CHAIR: Please go ahead.

25 THE WITNESS: The area that is reserve

1 along the shoreline, okay, which we are talking about
2 an area where there is particular interest in the fact
3 that there are cottages that are along this area, if
4 you look at the area that is in this map, it's actually
5 larger in this map than it is in this map.

6 MADAM CHAIR: When do you see Exhibit
7 1463?

8 THE WITNESS: I saw this last Wednesday
9 morning.

10 MADAM CHAIR: So what relevance does it
11 have of what you received in the mail?

12 THE WITNESS: It was received by my
13 mother.

14 MADAM CHAIR: This is precise? The one
15 received by your mother is precise?

16 THE WITNESS: Yes.

17 MS. BLASTORAH: Mr. Martel, I have to
18 clarify for my own sake, what do you mean by precise?

19 MR. MARTEL: It reflects what's in the
20 discussion and reflects what in fact on the ground is
21 occurring.

22 Both of you shake your head.

23 MR. LINDGREN: We are all shaking our
24 heads.

25 MADAM CHAIR: Mr. Lindgren, just clarify

1 once and for all for the Board, what is Exhibit 1463
2 doing here in front of us?

3 MR. LINDGREN: Okay. It was provided to
4 us by the Ministry of Natural Resources.

5 MADAM CHAIR: At your request?

6 MS. BLASTORAH: No, this was an offer we
7 made to Mr. Lindgren.

8 MADAM CHAIR: And what are you supposed
9 to be showing us?

10 MR. LINGREN: On this map, there is an
11 indication of a reserve along the northwestern -- I
12 guess the western shore of Mackie Bay, and the point of
13 question is simply that when you compare the size of
14 the reserve that's indicated on this map it's
15 considerably different, in my respectful submission--

16 MS. BLASTORAH: And larger.

17 MR. LINDGREN: --and larger than the
18 narrow reserves that's indicated on this map that was
19 provided to his mother, and the question was: Were you
20 aware?

21 THE WITNESS: I was only made of aware of
22 this last Wednesday.

23 MS. BLASTORAH: Mr. Lindgren, perhaps I
24 could ask you to just confirm whether you have any
25 disagreement with what's shown i Exhibit 1463?

1 This map was shown to you and to Mr.
2 Armstrong previously and nothing was indicated to me
3 about any disagreement with what was shown on that map,
4 and I would just like to clarify for my own sake now
5 whether you have any disagreement with the information
6 that is shown there and whether it accurately reflects
7 what's in the final plan?

8 MR. LINDGREN: Well, I'm sure that it
9 does, Madam Chair, and that's the nature of the
10 question.

11 Q. There is a change between this map
12 that was provided to his mother and what we see before
13 us today and I am wondering when, if at all, that
14 information was conveyed to your mother?

15 A. It wasn't.

16 MADAM CHAIR: Just so I have got this
17 straight now, the reserve area in the big map behind
18 you is larger or smaller than the first one you saw?

19 THE WITNESS: It's larger.

20 MADAM CHAIR: All right.

21 MR. LINDGREN: Q. Do you have any idea
22 when that was increased?

23 A. I have no idea when that was
24 increased.

25 Q. But it is certainly different than

1 the information that was provided to your mother?

2 A. Yes.

3 MR. MARTEL: Were you advised of this
4 change at any time?

5 THE WITNESS: My mother was not advised.
6 As a matter of fact, if I can digress, as of yesterday
7 she had not been informed of anything.

8 MS. BLASTORAH: I'm sorry, I didn't here
9 your answer.

10 THE WITNESS: As of yesterday she had not
11 been informed of any changes. I phoned for latest
12 update last night from my mother at approximately
13 eleven p.m. and she had not been advised.

14 MR. LINDGREN: Those are my questions.

15 MR. MARTEL: Are you pleased with the
16 change on 1463 if the reserve is bigger?

17 THE WITNESS: To be perfectly honest with
18 you, the reserve in this area is larger, it's nicer,
19 but I think that what we're really worried about is
20 something -- the meat of this whole matter is not
21 related to this area.

22 We have been talking about more than the
23 area on the other side of the lake, which is the more
24 important area. If I can make it as an aside, this
25 area, just because it involves my mother's own property

1 in here, we aren't even actually that close to the area
2 that is going to be harvested.

3 What originally came up when we became
4 aware of this is that fact that I know two of the Board
5 of Directors of the lake Weslemkoon Conservation
6 Association whose cottages back directly onto this that
7 were not even made aware of this. They only learned of
8 this through a telephone call from me after I had been
9 informed by my mother who had, in turn, been contacted
10 by Mr. Greer last fall; i.e., in 1989.

11 They had not been made aware of this
12 until just very shortly before the timber management
13 plan was to be approved for this area.

14 If we were to look at the overall picture
15 of the situation, if I might digress again, if you look
16 at the distance from my mother's property to the area
17 which is the prime concern, which we were talking about
18 down at the end of Otter Lake, I would suggest to you
19 that the distance involved makes us highly involved in
20 the access point that was originally proposed and a
21 roadway that would go through there. It has virtually
22 no effect on us, but on a larger scale of things, if
23 you look at the environmental concerns that we had,
24 sure it is going to have an effect on us.

25 MADAM CHAIR: I thought your evidence

1 last week was that your mother's property was within
2 300 metres of the area allocated for harvest in the
3 August 1989 plan.

4 THE WITNESS: This area here, but I think
5 the whole idea of what we were talking about originally
6 started with our misinterpretations between the
7 Ministry of Natural Resources dating back to 1987 when
8 this wasn't even an issue.

9 MADAM CHAIR: So your point here is, you
10 are more concerned about the road access question than
11 the location of cottages beside future areas allocated
12 for harvest?

13 THE WITNESS: Precisely.

14 MADAM CHAIR: All right.

15 THE WITNESS: If I just might continue
16 for a moment. If you look at it from the standpoint of
17 the Board of Directors of the Lake Weslemkoon
18 Conservation Association, if, for example, Mr. Greer or
19 Mrs. Nash were to have got up and made any sort of
20 witness statement here, I think it probably would have
21 been interpreted that they were more likely to be
22 affected by the road area.

23 And myself, I am not a property owner, my
24 mother is, but we are a considerable distance from
25 that, whereas Mr. Greer's property and Mrs. Nash's

1 property are located on Otter Lake much closer to the
2 roadway in question.

3 MR. LINDGREN: Thank you, Madam Chair,
4 those are my questions. I would suggest perhaps that
5 we mark that sketch map as the next exhibit.

6 MADAM CHAIR: What do you want to call
7 this, Mr. Lindgren?

8 MR. LINDGREN: Do you have a title for
9 that, Mr. Armstrong?

10 THE WITNESS: Sketch map of the Ashby
11 Creek, Otter Lake interface.

12 MR. LINDGREN: Sketch map by Mr.
13 Armstrong relating to the 400-metre reserve between
14 Otter Lake and the Ashby-Trout Lake Road.

15 MADAM CHAIR: Thank you very much, Mr.
16 Armstrong.

17 THE WITNESS: Thank you very much.

18 MADAM CHAIR: The Board appreciates your
19 evidence.

20 It is going to be Exhibit 1464.

21 MR. LINDGREN: Thank you.

22 --- (witness withdraws)

23 --- EXHIBIT NO. 1464: Sketch map by Mr. Armstrong
24 re the 400-metre reserve between
Otter Lake and the Ashby-Trout
Lake Road.

25

1 MS. BLASTORAH: Mrs. Koven, could I just
2 address one matter very briefly. It has nothing to do
3 with Mr. Armstrong, so I don't want to hold him.

4 It is just in relation to the matter we
5 just spent some few minutes trying to sort out here
6 about the map and so on. I would like to just restate
7 an offer to Mr. Lindgren that was made previously and I
8 think it might be something that would assist the Board
9 and maybe I could just get the Board's direction as to
10 whether this would be useful to you.

11 As you are aware, I used a chronology of
12 events during my cross-examination and I prepared that
13 in an attempt to make things go a little quicker, and I
14 think that was of some assistance, to go a little
15 quicker and a little more clearly in terms of the
16 factual matters and there really was I don't think much
17 dispute about.

18 We did offer or when we served our
19 interrogatories on Forests for Tomorrow, we suggested
20 that it might be appropriate - this is exactly the kind
21 of situation in fact it is appropriate - to prepare an
22 agreed statement of facts between the parties and we
23 suggested that that would be an appropriate thing to
24 do, so that we wouldn't spend a lot of time discussing
25 back and forth exactly matters like whether or not this

1 reserve is there and where it is and whether it is
2 important.

3 So we suggested that for non-contentious
4 facts, we and Forests for Tomorrow could sit down and
5 prepare an agreed statement of facts, that would be
6 filed with the Board and no one would have to deal with
7 that in oral evidence. Consequently, we felt that
8 would speed things up. Our interrogatories were posed
9 in a way that we had hoped would assist in doing that.

10 We again raised that matter with Forests
11 for Tomorrow when we inquired about the answers to the
12 interrogatories and they declined to take us up on our
13 offer and, in fairness to Mr. Lindgren, he said that it
14 was his opinion that the interrogatories would serve
15 that purpose and we wasn't willing to do anything more.

16 Now, I appreciate that we are all busy
17 and I would just like to offer again that we are
18 willing to sit down, if it is more convenient for the
19 future witnesses, evenings, weekends, whatever and
20 attempt to come up with some kind of an agreed
21 statement of facts for the rest of these witnesses so
22 that we don't have to spend a lot of time discussing
23 matters that maybe aren't even in contention.

24 I don't know whether that is something
25 that would be possible, for instance, for the rest of

1 the witnesses this week or maybe even the two next
2 week, but certainly with the two coming up in November,
3 Mr. Henderson and Mr. Oliver, that might be something
4 that we would be able to accomodate.

5 If the Board feels that would be of
6 assistance, I would just like to restate that offer to
7 Mr. Lindgren at this time.

8 MADAM CHAIR: The Board will discuss
9 this. What were your objections to an agreed statement
10 of fact?

11 MR. LINDGREN: Well, Ms. Blastorah did
12 fairly present my opinion on the matter.

13 We did receive a number of factual
14 interrogatories that we answered in the affirmative and
15 that in itself would serve as an agreed statement of
16 facts.

17 MADAM CHAIR: Well, it's not that helpful
18 to the Board, though, Mr. Lindgren, to have to go
19 through the reams of interrogatories to discern for
20 ourselves where the parties agree.

21 MR. LINDGREN: The issue, Madam Chair, is
22 not what was said or when, it's the interpretations or
23 explanations of various documents.

24 The questions that were posed during the
25 interrogatory process were merely: Did you receive

1 such and such a notice, did you receive such and such a
2 letter or did you send it out and we could agree on
3 that, but there are certain comments in those letters
4 that I think merit some discussion by the witnesses.

5 That's why I thought that in terms of
6 factually agreeing to non-contentious matters, that
7 kind of thing could be and in fact carried out through
8 the interrogatory process. Sitting down and drafting
9 and negotiating an agreed statement of fact, Madam
10 Chair, in my opinion, is just another paper requirement
11 that would add absolutely nothing to the agreement that
12 is also found within the interrogatory process.

13 So my position remains unchanged. I
14 can't say and, in fact, I don't believe that any
15 unnecessary time was spent on non-contentious issues.
16 The items that we went through here and the items that
17 we are going to through with our other witnesses are
18 precisely the conscientious issues, that would not form
19 the basis of an agreed statement of fact.

20 For that reason, we are not prepared to
21 sit down and draft and negotiate another piece of paper
22 to throw at this Board and the other parties.

23 MADAM CHAIR: Mr. Martel and I will
24 discuss this matter.

25 MS. BLASTORAH: Just clarify my point,

1 Mrs. Koven. I think I spent a great deal of time this
2 morning going through a lot of items that essentially
3 Mr. Armstrong just said yes to, and it was that kind of
4 thing that I was suggesting might be appropriate.
5 Just so you know where I am coming from.

6 MR. LINDGREN: Madam Chair, the reason
7 she was able to do that was because of the
8 interrogatories that were posed. We agreed, yes, Mr.
9 Armstrong did this or received this letter and I don't
10 think we need to go any further. In fact, we can't go
11 any further because of the limited resources that we
12 have.

13 MADAM CHAIR: The Board will take a
14 20-minute break now.

15 Are you beginning your next...

16 MR. LINDGREN: Pardon me?

17 MADAM CHAIR: Will your next witness be
18 ready to start in 15 or 20 minutes?

19 MR. LINDGREN: Absolutely.

20 MADAM CHAIR: Thank you.

21 Thank you again, Mr. Armstrong.

22 MR. ARMSTRONG: Thank you.

23 ---Recess taken at 3:05 p.m.

24 ---On resuming at 3:20 p.m.

25 MADAM CHAIR: Please be seated.

1 Mr. Lindgren.

2 MR. LINDGREN: Thank you, Madam Chair.

3 We are ready to proceed with Document No.
4 1 of the witness statement which has been marked as
5 Exhibit 1433A.

6 Now, before I begin, there is a couple of
7 housekeeping matters I would like to speak to. The
8 first is that during the scoping session, Madam Chair,
9 you asked me to identify any previous exhibits relating
10 to this matter, and for this witness there are three
11 previous exhibits and these are Exhibits 895A, 895B and
12 895C. It won't be necessary to refer to any of those
13 exhibits this afternoon, but the Board and the parties
14 should have those exhibits tomorrow morning. I expect
15 that reference will be made to them.

16 The next matter is that I would like to
17 file a package of interrogatories relating to Document
18 No. 1. Madam Chair, I will read into the record the
19 questions contained in this package. This package
20 contains OFAH interrogatories No. 4 and No. 6; OFIA,
21 No. 3, 5, 6, 7, 8 and 9; and, finally, it contains MNR
22 interrogatory No. 13, 15, 20, 22 and 24.

23 MADAM CHAIR: That will be Exhibit 1465.

24

25

1 ---EXHIBIT NO. 1465: OFAH interrogatories No. 4 and
2 No. 6; OFIA Nos. 3, 5-9; MNR Nos.
3 13, 15, 20, 22 and 24. (Document
 1, Panel 2)

4 MR. LINDGREN: Madam Chair, this is Mr.
5 Grant Tunnicliffe and I would ask that he be sworn to
6 give testimony.

7 GRANT TUNNICLIFFE, Sworn

8 MR. LINDGREN: Good afternoon, Mr.
9 Tunnicliffe?

10 MR. TUNNICLIFFE: Good afternoon.

11 DIRECT EXAMINATION BY MR. LINDGREN:

12 Q. I would like to just very briefly
13 refer to page 1 of your witness statement. I
14 understand that you are a biology teacher at a
15 secondary school; is that correct?

16 A. That's correct.

17 Q. You are a resident of South
18 Porcupine, Ontario?

19 A. That's right.

20 Q. Perhaps you can indicate on the map
21 behind you where that town is located?

22 A. South Porcupine is part of the larger
23 municipality of Timmins. It's about 200 miles of North
24 Bay and it's almost directly north of Toronto. South
25 Porcupine is a suburb, if you like, of Timmins.

1 Q. Perhaps while you are still at that
2 map you can generally indicate the location of Marceau
3 Lake?

4 A. Marceau Lake is on the main street of
5 Timmins, being Pine Street, and moving down Pine Street
6 about 35 kilometres you come to Marceau Lake. So it's
7 35 kilometres south of Timmins.

8 Q. Okay, thank you. I understand that
9 you own cottage property on Marceau Lake?

10 A. That's right.

11 Q. Is there any particular reason why
12 you reside in the area and why you own cottage property
13 in that area?

14 A. I think, speaking for myself, I was
15 brought up in Oshawa, I know southern Ontario, I live
16 in northern Ontario by choice. We bought our cottage
17 property for recreational purposes, to enjoy the
18 wilderness, to enjoy wilderness experience and to
19 provide an example of a simple life to my children as
20 they grew up.

21 Q. And perhaps at this point you could
22 unfrill the next map, as it were.

23 Madam Chair, I can indicate once again
24 this was a map that was prepared by the Ministry of
25 Natural Resources and presented to us for the purposes

1 of assisting the Board and the parties in following the
2 evidence, and perhaps that should be marked as the next
3 exhibit.

4 MADAM CHAIR: That will be Exhibit 1466.
5 Could you describe that map, Mr. Lindgren.

6 MR. LINDGREN: One moment, Madam Chair.
7 The legend indicates that it is the
8 forest stand map for Barlett Township and it also
9 contains stand map for McArthur Township which is to
10 the north of Bartlett Township and there is no date on
11 the map. It is based on the 1971 inventory.

12 What was the exhibit number, Madam Chair.

13 MADAM CHAIR: 1466. Which was the name
14 of the township north of Bartlett?

15 MR. LINDGREN: McArthur Township.

16 MADAM CHAIR: Thank you.

17 ---EXHIBIT NO. 1466: Forest stand map for Barlett
18 Township and McArthur Township.

19 MR. LINDGREN: The map contains township
20 maps for both of those townships.

21 Q. Mr. Tunnickliffe, can you indicate to
22 the Board the location of Marceau lake and can you also
23 advise which township that it is in?

24 A. Okay. Marceau Lake is on a waterway
25 that flows north, it flows towards Timmins. It begins

1 with a larger lake called Muskasenda further down, it's
2 part of the Mountjoy River system that then flows north
3 from Lake Muskasenda, it flows through to Marceau Lake.

4 From Marceau Lake, it flows through to
5 Triple Lake and from Triple lake to Papakomeka Lake and
6 from there through the Mountjoy system to Timmins. In
7 Timmins, it joins the Mattagami River system that flows
8 north.

9 Q. Has the Muskasenda complex been
10 designated as an official canoe route?

11 A. Yes, it has.

12 Q. By the Ministry of Natural Resources?

13 A. Yes, that's right.

14 Q. Can you point on the map to the
15 precise location of Marceau Lake itself?

16 A. Marceau Lake is here with the lines
17 around it. It's not a very big lake. It's about one
18 and a half kilometers long.

19 Q. And could you describe very briefly
20 the types of flora and fauna that one might expect to
21 see in the area of Marceau Lake?

22 A. We have a typical boreal forest I
23 think with jack pine and spruce, balsam, poplar, birch.

24 As far as the animal life is concerned,
25 we, of course, have bear, moose and deer have been seen

1 recently around our area. We have otter, beaver, we
2 have birds such as the pileated woodpecker, we have
3 ravens, of course, many of the warblers that we hear in
4 the bush, of course, going along with the black flies
5 and mosquitoes that have been abundant in a given time
6 of the year.

7 Q. How many cottages are located on the
8 lake?

9 A. There are 25 cottages.

10 Q. How do the cottagers access these
11 cottages?

12 A. They drive from Timmins down what is
13 called the Papakomeka road. The Papakomeka Road
14 actually extends all the way through to Kirkland Lake.
15 We are on the first leg of that road.

16 Q. Perhaps you could take the red marker
17 and mark on the map the approximate location of the
18 Papakomeka Road as it passes Marceau Lake?

19 A. Okay. This begins at Papakomeka Lake
20 and --

21 MADAM CHAIR: Excuse me, Mr. Tunnickliffe,
22 could you spell Papakomeka for the reporter?

23 THE WITNESS: Yes. P-a-p-a-k-o-m-e-k-a.

24 If I can just draw the road just roughly,
25 it comes down something like this. (indicating) We

1 have Scott Lakes down here and I have to make a little
2 bit of a turn here to take that into account. It goes
3 down like this.

4 There is another branch that goes over to
5 another lake off to the other side called Peterlong
6 Lake. It comes down right beside, probably closer than
7 what I have shown here to Marceau Lake.

8 MS. BLASTORAH: Mr. Tunnicliffe, since we
9 prepared the map, perhaps I could just point out, I
10 think if you check the legend the black line there
11 indicates the road.

12 THE WITNESS: Oh, I see. Okay.

13 MR. CASSIDY: You might indicate for the
14 record he just marked the exhibit with a red pen so
15 that we understand when we look at it later what we are
16 looking at.

17 THE WITNESS: Let me just mark all that
18 out and come closer to the lake. I don't like to go
19 over your mark here.

20 MS. BLASTORAH: Perhaps we could just
21 indicate that where Mr. Tunnicliffe's red line joins
22 the black line on the map that's roughly the location
23 of the Papakomeka Road.

24 THE WITNESS: It comes very, very close
25 to Marceau Lake on the east side of the lake.

1 MR. LINDGREN: Q. Can you describe very
2 briefly for the Board the type of uses that the
3 cottagers make of the Marceau Lake area?

4 A. Marceau Lake is available year round,
5 so many of the cottagers use their cottages year round.

6 The uses in the summertime, of course,
7 include fishing, using walking trails, enjoying nature,
8 canoeing, boating, the typical things you would find
9 around a cottage. There is water-skiing done on the
10 lake and so on.

11 During the fall, there is hunting and a
12 lot of our cottagers are hunters. During the winter,
13 there is ski-dooing, cross-country skiing and, again,
14 generally enjoying the wonderful wilderness we have
15 around Marceau Lake in the Timmins area.

16 Q. Now, I understand that in 1987 the
17 cottagers formed the Marceau Lake Cottagers
18 Association?

19 A. That's right.

20 Q. Why was it formed?

21 A. Can I sit down?

22 Q. Certainly.

23 A. The cottages were originally
24 purchased in 1975 and it was through a lottery system
25 that we were able to obtain our cottages, and it wasn't

1 until 1987 that there was a tremendous need to form an
2 association and that had to do with the announcement of
3 an impending forest management agreement -- or a timber
4 management plan, I should say, in which there was going
5 to be a fairly extensive amount of clearcutting done
6 immediately behind our cottages, and that would be on
7 the east side of Marceau Lake. In fact, in the
8 original plan, it was to be cut -- the cutting was to
9 extend right up to behind the back property line of
10 some of our cottages.

11 Q. Okay, we will return to that in a
12 moment. When the Association was formed they passed a
13 constitution; did they?

14 A. Yes, that's true.

15 MR. LINDGREN: I would like to file that
16 as the next exhibit, Madam Chair.

17 MADAM CHAIR: That will be Exhibit 1467.
18 Could you describe this briefly, Mr. Lindgren.

19 MR. LINDGREN: This is the constitution
20 of the Marceau Lake Cottagers Association adopted May
21 8th, 1990 and it contains 10 pages.

22 MADAM CHAIR: Thank you.

23 ---EXHIBIT NO. 1467: Constitution of the Marceau Lake
24 Cottagers Association adopted May
25 8th, 1990, consisting of 10
 pages.

1 MR. LINDGREN: Q. Mr. Tunncliffe, if I
2 could, I would like to refer you to Article 2, and
3 could you briefly describe the aims and objectives of
4 the Association?

5 A. The objectives are defined as
6 follows: 2.1, promotion of health, pleasure, comfort,
7 security and general welfare of its members; 2.2,
8 protection from pollution and the degradation of the
9 natural condition of the lake and its surrounding; 2.3,
10 conservation and promotion of prudent use of all
11 natural resources of land, forest water and air; 2.4,
12 assistance to members with problems related to the
13 objectives of the Association; 2.5, liaison with and
14 support of local and provincial agencies concerned with
15 preservation of the stated objectives of this
16 Association.

17 Q. Thank you. I understand that you
18 hold an office of the Association?

19 A. Yes, I was elected the President of
20 the Association.

21 Q. And when was that?

22 A. That was shortly after the
23 Association was formed in 1987 and I continue to hold
24 that position.

25 Q. If I could refer you to page 3,

1 paragraph 7 of your witness statement. You indicate
2 that was when the cottagers first learned about the
3 cutting proposals for Marceau Lake -- or the Marceau
4 Lake area.

5 Can you briefly advise the Board when and
6 how the cottagers learned of these proposals?

7 A. This was in 1984. Am I correct there
8 in 1984 -- we are talking about 1984?

9 Q. That's correct.

10 A. In 1948, we began to see evidence of
11 more and more clearcutting approaching the Marceau Lake
12 area. We have a few favorite spots around the lake
13 where we like to take visitors to show them some of the
14 natural beauty we have, and one of the areas we call
15 the 'chutes' which is just north of our cottage and
16 it's an area where the Mountjoy Creek is constricted
17 and there is a waterfall. It's quite a nice place.

18 We started to notice that clearcutting
19 was coming closer and closer to this area called the
20 'chutes' and that was an indication that we were going
21 to sooner or later have to face the fact that clear
22 cutting was coming closer to Marceau Lake.

23 What I did at that point was to draft a
24 letter to the then district manager, John -- I'm sorry,
25 Art Papineau and I indicated four areas that should be

1 considered for protection from logging around the
2 Marceau Lake area.

3 Q. This has been filled as Appendix A.

4 A. Right.

5 Q. Did you receive a reply from the
6 Ministry?

7 A. I did. It is dated February 7, 1984,
8 Appendix B. In the letter he indicates: Area 1,
9 waferboard agreement, will have a
10 400-foot reserve; areas 2, 3 and 4 will
11 certainly be given consideration for
12 protection from logging. There is no
13 intent to harvest wood fiber to the
14 detriment of established cottage
15 subdivision such as this. While
16 utilizing wood fiber is essential, the
17 concerns of other forest users will most
18 certainly not be overlooked.

19 Q. How did you interpret that statement?

20 A. I interpreted that as to mean there
21 would be some protection and I think we breathed a sigh
22 of relief that we would have certain areas that would
23 be protected.

24 Q. The reference to areas 2, 3 and 4
25 pertain to the areas indicated on Appendix A?

1 A. Yes.

2 Q. Did you send a cover letter with this
3 map to the MNR?

4 A. I did and I'm afraid I don't have a
5 copy of that.

6 Q. Did you attempt to obtain a copy from
7 the Ministry of Natural Resources?

8 A. I asked them for a copy and, in fact,
9 they had difficulty finding the return letter from Mr.
10 Papineau and they asked me for a copy of that.

11 I gave them a photocopy of the letter I
12 had, but we never did find the letter -- the original
13 letter that I had sent.

14 Q. Okay, thank you. Now, you have
15 indicated a few moments ago that the cottagers breathed
16 a sigh of relief when they received this particular
17 letter. Did anything of significance occur between the
18 years 1984 and 1987?

19 A. Only there was more and more
20 clearcutting occurring mainly along the Triple Lakes
21 area, both to the east and west shores of Triple Lakes.

22 Q. And perhaps you can indicate the
23 location of those areas on Exhibit 1466?

24 A. Triple Lakes are immediately north of
25 Marceau Lake. The water from Marceau Lake flows north

1 into three lakes which have been given the name Triple
2 Lakes. In fact, it is on that first map right on the
3 first page.

4 Q. And that's Appendix A?

5 A. Appendix A, right.

6 Q. Thank you. Can I refer you to
7 Appendix C, and can you explain to the Board what this
8 depicts, and in particular can you explain how these
9 proposals affected or might have affected the
10 cottagers?

11 A. In Appendix C, if you will note area
12 56, that represents an area designated for clearcutting
13 by the Quebec and Ontario Paper Company and, in fact,
14 most of that has been clearcut now. That was cut in
15 February of this year.

16 Area 34 is on the west side of the lake
17 and it's an area designated to be cut, I believe, next
18 year. There is a road access that is being cut into
19 Lake -- into that area 34 in the annual work plan for
20 this year and it will be accessing that area.

21 Q. Can you describe the cottagers'
22 concerns about these proposals?

23 A. Well, the concern with area 56,
24 originally it was to come very close to some of our
25 cottagers and it took a lot of arguing to convince the

1 Ministry that, in fact, they should not cut right up to
2 the property line behind our cottages.

3 We did win, to a certain extent, a
4 reserve going back to the main road and a reserve
5 actually on the -- it would be on the east side of
6 Papakomeka Road, so we did have some buffer from that.

7 But our main concern was that it was
8 coming very close and was going to become an eye sore
9 as people visited their cottages and, in fact, there
10 are several places along our road where clearcuts have
11 come right up to the road.

12 When we first started driving down that
13 road it was -- the road wasn't very good and there were
14 some times of the year when we couldn't get through,
15 but the forest came right up to the road and we had the
16 feeling we were driving into wilderness. As time went
17 by, clearcuts came right up to the road and in essence
18 it was almost like driving through a wasteland and that
19 was annoying to us.

20 Q. Perhaps you can indicate the
21 approximate location of those clearcuts in relation to
22 the Papakomeka Road on Exhibit 1466?

23 A. I think the one that bothered us most
24 was about one kilometre before we got to Marceau Lake
25 and it's quite an extensive clearcut. I'm not sure how

1 many hectares it would involve, but it's on the left
2 and the right side of the road. That was Malette
3 Forest Products that cut that road, and there are other
4 roads, other secondary roads that have clearcuts coming
5 right up to the road also.

6 We have always contended that the
7 Papakomeka Road is a fairly major artery for cottagers,
8 for hunters, fishermen, recreational users, visitors.
9 I have had visitors from overseas come and visit me and
10 it's just appalling to see this clearcut that's coming
11 right up to this, what we consider to be a main road.

12 Q. Mr. Tunnickliffe, a few moments ago
13 you referred to the proposal to cut to the rear
14 property line of the cottages, are you aware if that
15 situation had occurred elsewhere in the district?

16 A. There are a couple of different
17 cottage association that I have been in contact with
18 and they're very much behind what we're doing because
19 they've had the unfortunate experience of having this
20 happen.

21 One is an association that's Split Rock
22 Lake where there is a vast clearcut and people drive to
23 their cottage through the clearcut, and just before you
24 get to the lake, that's where the fringe of trees has
25 been left but, again, it's not very appealing, in my

1 are concerned that we want that reserve far enough back
2 that there will be no mistakes made.

3 Q. Now, on page 5, paragraph 10 of your
4 witness statement, you indicate that there was a ski
5 trail or a hiking trail in the vicinity of stand 56,
6 and could you can you relate to the Board what your
7 concerns were about the ski trail?

8 A. The ski trail began as a walking
9 trial about 15 years ago. It was eventually flagged so
10 that people wouldn't get lost when they went out in
11 that walking trail and then the occasional person used
12 it as a ski trail.

13 We continued to work on that ski trail.
14 We never cut down any trees in the sense that we don't
15 believe in cutting down trees. We are more interested
16 in skiing around trees than we are at cutting them
17 down. We have to brush out trees, we have to remove
18 dead trees that have take fallen across the path, but
19 we're more interested in the outdoor experience.

20 Sometimes it's hard to describe the
21 experience of skiing in northern Ontario, but it's
22 almost a spiritual experience in skiing. As a
23 consequence, it meant a great deal to us because we had
24 built that trail. Other cottagers, myself and my
25 family had built that trail. Now, that trail extended

1 into stand 56.

2 MR. LINDGREN: Madam Chair, for the
3 record, I can indicate that the issue of the evolution
4 of the ski trail is set out in OFIA interrogatory
5 question No. 7 in Exhibit 1465.

6 Q. Now, perhaps before we move on, Mr.
7 Tunnickliffe, while the cottagers were using and marking
8 the trail in the fashion that you have described, to
9 your knowledge did the Ministry know that that was
10 going on?

11 A. It became part of the controversy and
12 in actual fact there were two members of the Ministry
13 who skied over that trail just to ensure that it was
14 there and they met people on the trail as they did
15 that. I would have to go back and check on the date
16 when that happened.

17 Q. And during that time, Mr.
18 Tunnickliffe, has the Ministry ever required the
19 Association to either stop using the trail or to apply
20 for a land use permit?

21 A. No. February 1988 was when they
22 visited our trail.

23 Q. So, you have described the concerns
24 that the cottagers had about the proposals set out in
25 Appendix C and I understand that you attended the open

1 house in relation to this plan; is that correct?

2 A. That's right. That was -- in the
3 spring of 1987 we were informed that a new forest -- a
4 new timber management plan was in the offing and that
5 we should visit the information evening that was held,
6 which we did.

7 We were very concerned when we discovered
8 what was in store for us and, as a consequence, not
9 only did we form an association, we wrote a brief and
10 that's Appendix D. In that brief, we outline the
11 reasons why we thought we should have some
12 consideration and some protection from logging in the
13 immediate environs of Marceau Lake.

14 Q. Returning just for a moment to the
15 open house, were there Ministry of Natural Resources'
16 representatives and representatives of the timber
17 company in attendance?

18 A. Yes, there were.

19 Q. Were you satisfied with the open
20 house process or procedure?

21 A. I think everybody was friendly and
22 courteous and so on, but I had the feeling that it's
23 going to be difficult to make any major changes in what
24 was going on. There were maps available, there were
25 people willing to discuss what the plans were, but it

1 wasn't the sort of thing where we were -- where they
2 were willing to discuss major changes. They were
3 certainly willing to show us what was in store.

4 That was the point I think when we felt
5 we had to present a brief and we to organize a meeting
6 between the Ministry of Natural Resources and our
7 cottagers association, and I believe that took place in
8 December of that year.

9 MR. MARTEL: What sort of things -- you
10 say you sensed that they weren't prepared to discuss
11 major changes. What led you to believe that?

12 THE WITNESS: It was so long ago I can't
13 remember specifically what happened, but we had
14 arguments to the effect that the trees were mature and
15 it was time for them to be cut.

16 MR. LINDGREN: Q. These arguments were
17 coming from whom?

18 A. I can't remember specifically, but
19 from the Ministry people who were there, but they were
20 quite willing to discuss what their plans were.

21 Q. Can I ask to you turn to the last
22 page of Appendix D which is the brief that you prepared
23 in response to the open house.

24 I would ask you to look at the three
25 recommendations we find on the last page and can you

1 briefly describe the rationale for each of these
2 recommendations?

3 A. Okay. The first one is that a
4 750-metre timber reserve should be established around
5 Marceau and Scott Lakes for recreational use and the
6 preservation of natural wilderness conditions. Such a
7 reserve would allow for the continued use and further
8 development of walking, cross-country skiing and
9 ski-doo trails, as well as ensuring natural beauty of
10 the lake is preserved.

11 I think that is self-explanatory. We
12 were trying to preserve what we thought was a natural
13 condition around the lake. The 750-metre reserve,
14 actually it was changed later on to a 500-metre
15 reserve, but at this point in time we wanted to ensure
16 that the area was going to be preserved.

17 No. 2, any further cutting along the main
18 road should revert to the policy whereby a wide fringe
19 of trees is left between the road and the cut-over
20 area. This was the policy for years, but recent
21 cutting would indicate that it is no longer in use.

22 Again, we were trying to preserve an
23 image of wilderness as not only cottagers, but I think
24 other members of the general public drove into the bush
25 around Timmins.

1 No. 3, the Ministry should not offer
2 cottage lots for development areas that intends to
3 harvest intensively, or if the Ministry is considering
4 cottage lots, that citizens be informed prior to
5 obtaining those lots.

6 More careful planning is necessary when
7 Ontario citizens are considering what to many is a
8 second largest investment of their lives.

9 Q. Now, at the time that you and the
10 other cottagers acquired the property, what was your
11 understanding of the permitted land uses in the area?

12 A. Well, according to the District Land
13 Use Guideline, and that's included I believe as
14 Appendix K.

15 Q. That's correct.

16 A. It says, Land Use Intent:

17 "The primary use of this area will be a
18 combination of Crown land recreation
19 cottaging and tourism. Resource
20 management plans will contain guidelines
21 for protection of significant recreation
22 and tourism values, historical and
23 archaeological sites, fish and wildlife
24 habitat."

25 Q. When you purchased your property in

1 the mid 70's, what is your understanding that that
2 essentially captured the permitted uses?

3 A. That captured the feeling that we
4 had. It was certainly a long trip to get to Marceau
5 Lake at that time and the road wasn't good. It was
6 quite an adventure sometimes even getting to the
7 cottage and it was a wilderness that we were going to.

8 Q. Now, a few moments ago you referred
9 to a meeting you had with the MNR and the company
10 subsequent to the open house, and this is referred to
11 in paragraph 14 of the witness statement.

12 Can you briefly describe what occurred at
13 this meeting?

14 MADAM CHAIR: Which page is that, Mr.
15 Lindgren?

16 MR. LINDGREN: Page 6 of the witness
17 statement.

18 THE WITNESS: This is where, I believe,
19 the whole thing got off track. This to me was a
20 crucial time when cottagers were trying to deal with
21 the fact that they were going to have a clearcut very
22 close to their cottage.

23 At that meeting, we had the feeling we
24 were talked down to, that we were given arguments about
25 90 years trees falling over, and if they were left

1 after 90 years that -- the term jackpot comes back to
2 mind, that they wouldn't be able to harvest them, and
3 to me that was not the case.

4 Certainly, after 90 years jack pine start
5 to die, but there is evidence of jack pine living twice
6 that length of time also. So, as a consequence, we
7 couldn't visualize after the trees became 90 years that
8 they were all going to fall over and die, but that was
9 the kind of argument that we were given.

10 I think the reason MNR gave us that
11 argument was the fact that economically that's the time
12 when trees should be cut, that's the time when they
13 have reached a suitable height and they are
14 economically worthwhile harvesting.

15 Now, of course, we didn't see it that
16 way. We saw it as a natural wilderness that we were
17 trying to preserve. After talking down -- and I use
18 that term talking down, I wasn't the only one who felt
19 that way. There was a lot of frustration at that
20 meeting, there was -- tempers began to flare after the
21 first hour and it was only that first hour that John
22 Chevalier, who is the district manager, got up and
23 said: Well, we will have a second look at this, we
24 will try and make sure that the Quebec and -- well, at
25 that time it was the Ontario Paper Company, I believe,

1 would not cut behind, so they would preserve that, and
2 they gave us some reserve on the west side of
3 Papakomeka Road, too.

4 So that helped a little bit, but it was
5 just unfortunate I thought that that meeting couldn't
6 have been handled a little better. Once that happened,
7 then of course the cottagers were angry.

8 MS. BLASTORAH: I'm sorry, Mr. Lindgren,
9 I just didn't hear one thing.

10 Can I just ask the witness to repeat one
11 thing.

12 MR. LINDGREN: Yes.

13 MR. BLASTORAH: You said they gave a
14 reserve on which side of the road?

15 THE WITNESS: On the west side -- I'm
16 sorry, on the east side of the road.

17 MS. BLATORAH: Thank you.

18 THE WITNESS: Yes, the east side of the
19 road.

20 MR. LINDGREN: Q. Now, on page 7 of the
21 witness statement, in the first full paragraph there is
22 an indication that it was your impression that the MNR
23 was siding with the Quebec-Ontario Paper Company and
24 "that our views were being given little or no weight."

25 Can you explain what you meant by that?

1 A. I think the 90 year curtain -- like,
2 after 90 years economically that's the time when trees
3 should be cut, and I am still of the opinion that the
4 Ministry of Natural Resources personnel have been
5 trained in forest management techniques and they are
6 very good at that. They're very good at cutting at the
7 right time, but I think they have very little regard
8 for cottagers and the aesthetics that cottagers are
9 looking for.

10 Q. Further down in the same paragraph,
11 you indicate that:

12 "The cottagers were angry that the MNR
13 staff had apparently not read our brief
14 prior to the meeting."

15 You also indicate that you had spent
16 considerable time preparing the brief and "the MNR's
17 actions struck me as inconsiderate and insensitive."

18 How do you know that the MNR had not read
19 your brief?

20 A. One thing, they were not familiar
21 with the Art Papineau letter, the 84 Letter. They were
22 not familiar with the recommendations that we had made
23 in that brief. They were not familiar with the ski
24 trail, and there was another reason why I think it was
25 very frustrating. We had the feeling we had gone to a

1 lot of work and effort putting that brief together, and
2 then we had the feeling that it really hadn't been
3 studied prior to our meeting and it was a concern.

4 Q. Now, subsequent to that meeting, did
5 you write to the MNR outlining your concerns?

6 A. I did.

7 Q. This is Appendix F.

8 A. Appendix F.

9 MADAM CHAIR: Mr. Lindgren, could you
10 find a convenient time to stop today.

11 MR. LINDGREN: Perhaps we will just have
12 Mr. Tunnickliffe explain what Appendix F is and that
13 might be the appropriate spot to break.

14 MADAM CHAIR: All right.

15 THE WITNESS: Appendix F is a letter that
16 was written after our meeting between -- this was the
17 initial meetings that had all the cottagers present.
18 The Ontario Paper Company people were there, the MNR
19 people were there and this is what I understood was the
20 result of that meeting.

21 No. 1 - I am reading from Appendix F -
22 No. 1, a 200-foot timber reserve will be applied to the
23 east side of the Papakomeka Road where it passes .
24 Marceau Lake.

25 No. 2, the cut-over area behind the

1 reserve will be replanted in red pine; No. 3, when the
2 red pine reaches a height of 2.5 metres, the timber
3 reserve mentioned in (1) above will be allowed to be
4 cut; No. 4, a minimum 400-foot - that's a 120-metre
5 timber reserve - will be applied to the cutting
6 operations on the west side of Marceau Lake and that
7 when the times comes for marking the boundaries, the
8 president of the Marceau Lake Cottage Association will
9 be informed and either he or a delegate will be
10 included in the marking operations. That's the area
11 across the lake on the west side, across from the
12 cottages.

13 MR. LINDGREN: Madam Chair -- did you
14 want to continue?

15 THE WITNESS: On the second page, I
16 re-emphasize the fact and I would like to mention it
17 now. We are not against forestry operations. We have
18 members of our Association who work for forest
19 companies or have worked for forest companies in the
20 past and it's an economic reality in northern Ontario
21 that forests are necessary, and there is a lot of jobs
22 and money that's created in forest operations. So
23 we're not against that kind of thing. .

24 What we are saying is, we just don't want
25 it in our backyard. We want to be able to enjoy our

1 cottage and at least a presumed wilderness that we have
2 around, but we are not against lumber operations as
3 such.

4 MR. LINDGREN: Madam Chair, this would be
5 on appropriate spot for a break.

6 MADAM CHAIR: Thank you, Mr. Lindgren.

7 Thank you very much, Mr. Tunnickliffe. I
8 am sorry you got started later this afternoon than we
9 had planned, but we will see you tomorrow morning at
10 nine o'clock.

11 Thank you very much.

12 MR. CASSIDY: Madam Chair, can Mr.
13 Lindgren give us an estimate of how much longer he
14 anticipates being in-chief tomorrow morning?

15 MR. LINDGREN: And hour I would say.

16 MR. CASSIDY: Ten hours?

17 MADAM CHAIR: One.

18 MR. CASSIDY: Thank you very much, Madam
19 Chair.

20

21 ---Whereupon the hearing was adjourned at 4:05 p.m., to
22 be reconvened Tuesday, October 23, 1990 commencing
at 9:00 a.m.

23

24

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